

United States
Circuit Court of Appeals
For the Ninth Circuit. 2

THE TEXAS COMPANY,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

Transcript of Record
In Five Volumes
VOLUME IV
Pages 1467 to 1724

Upon Petition to Review and Enforce an Order of the
National Labor Relations Board

FILED

DEC 10 1942

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THE TEXAS COMPANY,

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NATIONAL MARITIME UNION OF AMERICA,
Intervener.

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In Four Volumes

VOLUME IV

Pages 1467 to 1724

Upon Petition to Review, and Request for Enforcement
of, Order of the National Labor Relations Board

J. W. CARR

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Pipkin) Give your name and initials to the reporter, Mr. Carr.

A. J. W. Carr.

Q. Mr. Carr, what are your duties?

A. Second mate aboard the "Washington."

Q. Are you or were you up to the time the "Washington" sailed a few days ago second mate on the "Washington"? A. I was.

Q. Do you plan to return to that ship?

A. I do.

Q. As soon as you are relieved here?

A. Yes, sir.

Q. How long have you been with the Texas Company? [2085]

A. Since April 29, 1935.

Q. How long have you had your license?

A. Since February 12, 1934.

Q. Do you recall the three seamen by the names of Buckless, Ainkiewycz and Rosen? A. I do.

Q. When did they come aboard the "Washington"?

A. I don't remember the date they came aboard.

Q. Do you remember when they came aboard?

A. Yes, sir, I do.

(Testimony of J. W. Carr.)

Q. Did they come together or not?

A. That I couldn't say.

Q. Did they come on board together?

A. I don't know if they came aboard together, but they were there they day they signed on.

Q. Did you see them before you sailed?

A. Yes, I saw them.

Q. Did you have any occasion to talk to any of them?

A. I spoke to Mr. Buckless. It happened that he was there before. That was all.

Q. Do you recall when the ship was at Claymont, Delaware? A. Yes, I do.

Q. When was that?

A. It arrived on July 3, and sailed the morning of the fifth. [2086]

Q. Were those three men I have named on the ship at that time? A. They were.

Q. What watch did you stand, Mr. Carr?

A. 12:00 to 4:00, morning and evening.

Q. What did Mr. Buckless do?

A. He was quartermaster.

Q. What was his watch?

A. 12:00 to 4:00, morning and evening.

Q. He was on the bridge at the same time you were? A. That is right.

Q. What is the custom about calling a man, say you are working on the 8:00 to 12:00 watch, calling the man who is to go on the 12:00 to 4:00 watch.

(Testimony of J. W. Carr.)

A. The custom is to call him at twenty minutes before 12:00. That gives him time to dress and have his coffee, and go on watch at 12:00 o'clock.

Q. If you recall, what time did you come on watch the night of the fourth or the morning of the fifth?

A. I came on watch the morning of the fifth at midnight.

Q. Was Buckless there when you came on?

A. He was not.

Q. Did you inquire about him?

A. The quartermaster came to me and said he had no relief, that Buckless was unable to get up; that he couldn't get him [2087] up.

Q. What quartermaster was it?

A. Mr. Zihrul.

Q. Was he the man on the stand yesterday?

A. Yes, sir.

Q. Well, did you send the quartermaster back for him later on?

A. Yes, sir. He tried two or three times to get him up, and couldn't get him up. And I said, "Well, let him sleep a couple of hours, until 2:00 o'clock," and we tried, and were unable to get him up at 2:00.

Q. Did you ever go back there?

A. I did, at 2:00 o'clock.

Q. What did you find when you went back?

A. He seemed to me like a dead man, and smelled of drinking. I couldn't get him up.

(Testimony of J. W. Carr.)

Q. You couldn't arouse him? A. No, sir.

Q. Didn't say anything? A. No, sir.

Trial Examiner Persons: Did he stand his watch, or any part of it?

A. He did not.

Q. Had he made any request of you to permit Zihrul to stand his watch for him? [2088]

A. None whatever.

Q. Did he ask you to be permitted to change his watch? A. No, sir.

Q. Did he ask you to let somebody else stand his watch? A. No, sir.

Q. Do you know of your own knowledge whether he stood any extra watch there after or before?

A. Not that I know of.

Q. Do you know whether he had stood any watch to get ahead on his time?

A. No, sir, none to my knowledge.

Q. You went off duty at what time then, Mr. Carr?

A. I finished discharging oil, and we sailed early in the morning. I was on duty until the ship sailed, let go. I don't know what time it was, but it was between 4:00 and 8:00.

Q. You didn't go off directly at 4:00 o'clock?

A. No, sir.

Q. Did Zihrul work out the entire second watch?

A. Yes, sir, he did, four hours.

Q. He stood another four hours?

(Testimony of J. W. Carr.)

A. Yes, sir.

Q. That made eight hours in a row?

A. Eight hours.

Q. When did you next see Mr. Buckless?

A. When we let go that morning. I don't know what time it [2089] was.

Q. Was he on deck?

A. He came out on deck.

Q. What did he say, if anything?

A. Well, he admitted to me that he was done with, that he had spilled the beans. He said he had got on a good one last night.

Q. Was he sober when he came out?

A. He was then.

Q. Was he able to help let go the lines?

A. Yes, he was.

Q. Mr. Carr, did you ever see him under the influence of liquor at any other time on these two vessels?

A. Well, I presume he was drinking, but that was the first time I saw him out of order.

Q. What do you mean by presume, Mr. Carr?

A. Well, it is not hard to tell when a man is drinking when you are working with him every day, those that do drink. But he was able to carry out his work.

Q. Did you ever see him come aboard staggering on the gang plank?

A. No, I don't recall that I did.

(Testimony of J. W. Carr.)

Q. Did you ever see him weaving up and down the deck?

A. No, sir, I don't think I did.

Q. Do you recall the day you were at Bayonne, New Jersey? [2090]

A. Yes, sir.

Q. Was he sober there?

A. He was on watch.

Q. On watch? A. Yes, sir.

Q. And you said you know Mr. Rosen and Mr. Zinkiewicz?

A. I do.

Q. Did you ever observe them working on board?

A. I have at times.

Q. Under whom were they directly working?

A. Under the mate and boatswain.

Q. Did you ever have occasion to see what sort of work they were doing and how they were doing it?

A. Well, on the 12:00 to 4:00 watch I had occasion to observe Mr. Zinkiewicz. Mr. Rosen was on the 8:00 to 12:00 watch.

Q. What sort of work did Zinkiewicz do?

A. Well, the mate and I discussed it. He was lagging in his work, and I happened to notice that he was not moving as fast as the others.

Q. To be particular, what kind of work was he supposed to be doing?

A. Whatever work he was doing, chipping, painting and so on.

Q. Was he slower than other members of his crew? [2091]

A. Yes, sir.

(Testimony of J. W. Carr.)

Q. Was he noticeably so?

A. Noticeably so.

Q. You would not have to be looking for it to see it? A. No, sir.

Q. Did you have any occasion to observe what sort of work Mr. Rosen did?

A. He was on the 8:00 to 12:00 watch, and I was asleep in the morning.

Q. Mr. Carr, were working rules posted on the "Washington"? A. Yes, sir.

Q. While you were on the bridge with Buckless during your and his watch, what sort of a helmsman was he, Mr. Carr?

A. Well, he was not very good. I would not call him a good helmsman. [2092]

Q. Tell the Examiner what sort of a helmsman he is.

A. He is inclined to let go the wheel and walk back and forth in the wheel house; steer a zigzag course.

Q. Did you ever have to criticize his work?

A. I did. I mentioned the fact to him several times.

Q. What did he say?

A. He didn't say anything.

Trial Examiner Persons: Pardon?

Mr. Pipkin: He said he didn't say anything.

Q. What happens to the ship when the quartermaster lets go of the wheel and walks back and forth?

(Testimony of J. W. Carr.)

A. Well it is inclined to go its own course, whatever it may choose.

Q. Is it likely to go straight?

A. No, it is not likely.

Q. Did you ever look out behind the ship when Buckless was steering and see the wake?

A. Yes, sir.

Q. Was it straight? A. No, sir.

Q. Did you ever catch his course off?

A. Yes, sir.

Q. What is the most you ever caught it off?

A. Ten degrees.

Q. Ten degrees? [2093] A. Yes, sir.

Trial Examiner Persons: You mean degrees, do you, Mr. Carr? A. Yes, sir.

Q. (By Mr. Pipkin) Would it vary between that?

A. All the way from 5 to 10 degrees back and forth.

Q. Do you know whether or not Mr. Buckless ever smoked on duty?

A. I don't know whether he did or not.

Q. Did you?

A. No, sir. I don't use tobacco ever.

Q. You don't use tobacco in any form?

A. No, sir.

Q. Did you ever find any cigarette butts?

A. The captain mentioned the fact to me one morning when he came on the bridge that there

(Testimony of J. W. Carr.)

were match sticks there next to the door, and told me to be pretty watchful about it. But who dropped them, I don't know.

Q. Did you drop them?

A. No, sir. I didn't use them. I don't carry matches or cigarettes.

Q. Mr. Carr, what was the attitude of the officers of the "Washington" with reference to union men?

A. Well they show no discrimination between union and non-union. In fact, they were all the same to them. [2094]

Q. Do you treat union and nonunion men alike?

A. I treated them all alike.

Q. Did you ever talk to Mr. Zihrl about whether Buckless paid for his watch?

A. I asked him, and he said he never mentioned it to him. That was what he was sore about.

Q. Now, Mr. Carr, you had a lot of conversation with Buckless while you were on the bridge there, didn't you? A. Yes, off and on.

Q. Did he tell you about his past record?

A. He often discussed it, yes, sir.

Q. Was he in the navy?

A. He told me he was.

Q. Were you in the navy? A. No, sir.

Q. Did you have a war record?

A. I was in the United States Marine Corps.

Q. Was Mr. Buckless ever court-martialed?

(Testimony of J. W. Carr.)

A. He told me he was court-martialed in the navy, and served time in Portsmouth, New Hampshire, and was dishonorably discharged.

Mr. Martin: We object. It is immaterial and irrelevant, and it has no place in this case.

Mr. Pipkin: It was testified what a splendid record he had. I want to further develop what this dishonorable [2095] discharge was for. The record can be had on it.

Mr. Martin: The record would be the best evidence.

Mr. Pipkin: The only way it could be done would be to bring somebody down with them.

Mr. Martin: We can get them certified.

Mr. Pipkin: This man admitted his record. If you want to rebut it, you can bring Mr. Buckless in here to do it. It goes to refute absolutely Mr. Buckless' contention as to what a splendid navy record he had; that he had never been accused or convicted of any disorderly conduct heretofore.

Trial Examiner Persons: Could you give a page reference? I am under the handicap of having had to review this thing in a very brief time. I have no such remembrance.

Mr. Pipkin: It will be quite easy, your Honor, if I can locate Mr. Buckless' testimony.

Trial Examiner Persons: In the fourth volume, beginning on page 627.

Mr. Pipkin: Off the record.

(Discussion off the record.)

(Testimony of J. W. Carr.)

Trial Examiner Persons: I find, Mr. Pipkin, on page 627 and 628 reference to navy record by Mr. Buckless, at the beginning of his direct testimony. He was a boatswain's mate, able-bodied seaman and quartermaster, page 628. I find no reference to the circumstances of his discharge.

Mr. Pipkin: That was his qualifying opening statement, [2096] and if you will bear with me I will pick out some more for you.

In the little brief summary I have here of the testimony, the first time he begins to talk about his drinking that was repeatedly denied. Beginning on page 1916——

Trial Examiner Persons: When he was recalled?

Mr. Pipkin: When he was put back on the stand by the Board to explain the testimony of Captain Swanson.

Trial Examiner Persons: Yes, go ahead.

Mr. Pipkin: Now that testimony talks about the fact that he did get drunk, has gotten drunk, and that he did his heavy drinking at port, pages 1928 and 1929. He admits drinking a few beers at Boston, and admits giving a fellow a shiner, a couple of shiners, I believe, after leaving Boston.

This question which I directed to Mr. Carr here was to show not only that what we are saying here is true, that this man did drink, but that he had been guilty of disorderly conduct before, and had been so convicted by the United States Department of Commerce, or the Navy Department.

(Testimony of J. W. Carr.)

Trial Examiner Persons: There will be no question on the record about the fact that Mr. Buckless admitted he drank, and drank on the job; but I find nothing here, and my recollection is that he made no direct reference to the circumstances of his discharge from the navy, which is what I have [2097] in mind at this time.

Mr. Pipkin: I don't recall about that.

Trial Examiner Persons: I recognize that I am handicapped in this matter. I am going to sustain the objection in so far as you are attempting to go into the discharge and the man's record.

I would like to state on the record quite frankly that I think the questions should be excluded if Mr. Buckless made no reference to his discharge, and no claim that he had been honorably discharged, when he was on the stand. I think if he did make such a statement they should be allowed.

Mr. Pipkin: You are taking the position this would not go to the general merits of the matter of Mr. Buckless' conduct?

Trial Examiner Persons: As to his service on a merchant ship some years, almost 20 years, after he was in the navy. If it went to the credibility of the witness I certainly would allow the question.

Mr. Pipkin: Would it not come within an attack on his credibility in his first testimony when he said he didn't do any drinking?

Trial Examiner Persons: I am not ruling on

(Testimony of J. W. Carr.)

the question of drinking. I am ruling on the circumstances of his discharge from the navy.

Mr. Pipkin: The fact that he was discharged from the [2098] navy for disorderly conduct?

Trial Examiner Persons: After all, he was in the navy when?

Mr. Pipkin: I assume it was during the war. Is that your understanding, Mr. Carr?

A. Yes, sir, shortly after or during the time.

Trial Examiner Persons: I take it you won't want to go into anything that affects a man's record back in war time on a navy ship, will you?

Mr. Pipkin: I am interested in going into any conduct that shows that what he says in a hearing at Port Arthur as being a man that didn't do any drinking and behaved himself has not been true; and which has been connected up with the events over a period of years that show that he was discharged from another tanker for missing a watch. He has admitted drinking from time to time. It is not a period of 20 years I am attempting to bridge.

Mr. Martin: Has The Texas Company been receiving daily copy right straight through these hearings of the testimony in these proceedings?

Mr. Pipkin: Yes, sir.

Mr. Martin: Then certainly there was an opportunity during the cross examination to look into this matter, because Mr. Buckless made reference to the navy while he was on the stand, and we resumed the following day. [2099]

(Testimony of J. W. Carr.)

Mr. Pipkin: Maybe I made a mistake in assuming that his navy record was good. You put us in a position of not being able to talk to the "Washington" until two weeks after the hearing was concluded.

Trial Examiner Persons: Let's not have oral argument at this stage. I want to withdraw the statement that it must have been 20 years, as his entire service at sea has been 20 years. He said he was discharged as boatswain's mate.

Mr. Martin: Mr. Examiner, I would like at this time to move that Mr. Carr's answer to the last question be physically taken from the record.

Trial Examiner Persons: The motion will be denied.

Mr. Pipkin: I would like at this time to move on behalf of the respondent that this case be held open and continued until such time as a representative of the navy department, with the proper records showing these facts that this man is willing to testify about, can be here in Port Arthur and put them in the record.

Trial Examiner Persons: Wouldn't it be simpler to stipulate that these records can be procured and put in as an exhibit later.

Mr. Pipkin: That is perfectly agreeable to me.

Trial Examiner Persons: Instead of keeping this man here.

Mr. Pipkin: You understand we would have photostatic copy from the department if we could get them. [2100]

(Testimony of J. W. Carr.)

Trial Examiner Persons: I have some knowledge of the difficulty you are up against.

Mr. Pipkin: The navy department will not let you get copies and take them out.

Trial Examiner Persons: They will make them and send them to you.

Mr. Pipkin: They refused us, saying that it was an official record of a court-martial of one of their men, and the only way we could get it was to send one of their representatives with the record.

Trial Examiner Persons: But certainly the record of service in the government is a public matter.

Mr. Pipkin: Sir?

Trial Examiner Persons: And the record of that man's discharge is a public record.

Mr. Williams: Unless I am mistaken, that is a record of a court-martial, and I don't believe they will allow a photostat made or a copy made of anything like that. They don't want it to be used as against the man at all. They will send a representative, and he will have the record, and he will give the testimony from that record, but I doubt very much if they will allow copies or photostats to be made.

Trial Examiner Persons: They might not allow a copy of the complete record, but certainly the circumstances of his discharge should be allowed.

[2101]

Mr. Pipkin: Will the Examiner permit Mr. Martin to wire the navy department at our ex-

(Testimony of J. W. Carr.)

pense and ask that copies be forwarded to us at our expense. They have already refused us.

Trial Examiner Persons: How much of it do you want?

Mr. Pipkin: I don't want the entire detailed proceedings of the court-martial. The findings are what we do want and the order on the findings.

Mr. Martin: Mr. Examiner, I questioned Mr. Buckless, and I don't remember asking any question, and so far the respondent's attorneys have failed to show any place in the transcript where any testimony was directed to anything like that. There was a witness on the stand by the name of George Hart, who was a petty officer in the navy, and stated that he had charge of some men in the navy, but I don't remember Buckless saying any such thing. If there was no testimony to that effect certainly no record concerning his navy career would be admissible.

Trial Examiner Persons: I will direct your attention to pages 267 and 268, Mr. Buckless being on the stand on direct examination, where he said he was boatswain's mate.

Mr. Martin: All right, I am wrong in that instance. However, respondent's attorneys are making the offer of this material on the ground that Buckless bragged about his record in the navy. I challenge them to find any statement in his [2102] direct examination or cross examination where he bragged or made any statement about his navy rec-

(Testimony of J. W. Carr.)

ord, other than that the Examiner has just read, and I submit the respondent's attorneys cannot show a single instance of Buckless bragging. And I might say he is a very unbragging sort of person. I submit that no record concerning his navy activities has any relevancy in this case; particularly in view of the fact that some years after he was dishonorably discharged from the navy the respondent company hired him on three different boats during a period of two years, and they have had every opportunity to go into everything he did on the two boats during the three years, during three different periods of employment; and I think that should be enough to impeach his testimony, if such they are able to do. [2103]

Trial Examiner Persons: I want you to bear with me while I read a question and answer on page 629, line 8, still under Mr. Martin's examination: "Question: When were you in the navy? Answer: I went in the navy June 4, 1915. Question: When did you leave? Answer: 1919." That is just for my own benefit, when I said it was twenty years ago.

The Trial Examiner will rule that the questions relative to his service or the circumstances of his leaving the navy will be excluded. Exception will be duly noted.

Mr. Pipkin: You will likewise admit from what you have just read, you will now, that his connection was not as a war time sailor?

(Testimony of J. W. Carr.)

A. 1915 to 1919.

Mr. Pipkin: But his court martial came after 1919, after the close of the War.

Trial Examiner Persons: I don't know anything about that.

Mr. Pipkin: He said he left the navy.

Trial Examiner Persons: Some men do leave the navy not on discharge.

Mr. Pipkin: Do I understand then you are not going to permit us to try, through the Board, to get a record of this?

Trial Examiner Persons: I don't see the necessity.

Mr. Pipkin: Do I understand you won't let us try to bring a man down here?

Trial Examiner Persons: Any witness you bring down will [2104] be heard.

Mr. Pipkin: If a Navy Department official comes in with these records, will you permit him to testify fully on this matter?

Trial Examiner Persons: Yes, or if you wish to have it understood that the records may be procured and put in, that can be done. It will be subject then to the Board's decision, whether or not it is admissible.

Mr. Pipkin: Will you then permit the Board's attorney at Washington and Mr. Van Dusen, coming down from New York to Washington, to interview the Navy official together, and whatever they ascertain to put in into the record?

(Testimony of J. W. Carr.)

Trial Examiner Persons: May I say you will have opportunity to present written briefs, and you will have opportunity to have oral argument before the Board at Washington, so you are not taking any chances.

Mr. Pipkin: I understand, but I do want to get the best record possible on this very point, because I feel it is vitally important.

Trial Examiner Persons: I am more or less speaking from my own judgment in the matter, but I take it such a record, if offered later, in view of the finding made by the Trial Examiner, would have the standing of a rejected exhibit. If we receive exhibits during the hearing and reject them, they are put in a separate file, and sent to Washington, and they can be passed on by the Board.

[2105]

Mr. Pipkin: In order to make this complete, may I ask this witness one more question to get his statement in the record?

Trial Examiner Persons: By way of offer of proof?

Mr. Pipkin: By way of offer of proof.

Mr. Martin: You ask the question, and I will object to it before he answers it.

Q. (By Mr. Pipkin) Just relate for the purpose of our bill of exception what he told you in connection with the navy, what Mr. Buckless told you with reference to his navy record.

(Testimony of J. W. Carr.)

Mr. Martin: I object on the ground that it is repetitious. He has already related once what Mr. Buckless told him.

Trial Examiner Persons: Objection overruled. It stands as an offer of proof.

Mr. Martin: I object on the further ground that it is irrelevant and immaterial to any issue in this case.

Trial Examiner Persons: The Trial Examiner has so ruled.

Mr. Martin: Very well.

Q. (By Mr. Pipkin) Go ahead.

A. We just discussed service records and so on, and he told me that he got in trouble, in fact serious trouble, and was given a general court martial, and served time in Portsmouth, New Hampshire; and that he got in many difficulties, in fact was incorrigible, and that in fact they very nearly killed [2106] him a number of times, the marine guards. He has a very bad record, so he told me.

Q. Do you recall how long he said he was there?

A. No, I don't recall.

Mr. Pipkin: To the action of the Examiner we have our automatic exception.

Trial Examiner Persons: Yes, Mr. Pipkin, always.

Mr. Williams: Your Honor is laboring under the disadvantage of not having sat through the previous testimony, and here is the reason we think we are entitled to go very fully into this. As has

(Testimony of J. W. Carr.)

been shown you, we have had no opportunity to confer with the officers of the "Washington". The complaint alleges discharge from two vessels. One was the "Nevada". The "Nevada" made a trip to Spain during the present unpleasantness in Spain, and Buckless was a member of the crew of the "Nevada". We produced the officers of the "Nevada", and of course he testified for himself to substantiate the charge; and all through his testimony, on cross examination, he denied that he used liquor to excess, or had used liquor to excess. He denied that.

He also went further, and related specific occasions and instances where he was rated as a splendid seaman. He had made a ship's ladder, and so forth, and he brought in this navy experience as corroborating the fact that he was a good seaman, or should have been a good seaman. [2107]

Now we produced the officers of the "Nevada", and the testimony showed plainly that he had drunk to excess, and so forth.

Then some two or three days later the complainants and the Board put Mr. Buckless back on the stand and the attorney for the Board questioned him and, in order to explain his former testimony, I suppose, he practically admitted that he was a drinking man, and had been a drinking man on various and sundry occasions. In other words, his testimony then was more in the nature of a confession and avoidance, and we say it affects his general credibility.

(Testimony of J. W. Carr.)

Of course he still maintained that he could perform his duty, and his explanation of this episode was that he claimed he had an agreement to have someone else stand that watch. We think it goes to his credibility as a witness to show his conduct in the navy, because I have no other way to explain his second appearance on the stand. The best term I can use is confession and avoidance, because, under partially leading questions, they didn't hurt us, so I didn't object to them, but he got on this stand and admitted, yes, I am a drinking man. [2108]

The Board's attorney has referred to his conduct in this proceeding even, your Honor, as being an habitual drunkard on the "Nevada". He used that very language. He asked why he was hired on the "Washington" when he was known to be an habitual drunkard. This is the same as an indictment and a conviction, and we have the right to show it. When he came back on the stand in rebuttal he entirely changed the color of the testimony.

Trial Examiner Persons: I have the testimony in mind, Mr. Williams, except for the one phrase you used which I will not at this time repeat. Do you have in mind that there has been no ruling to the effect that questions as to his drinking habits are excluded? The ruling of the Examiner is simply that we will not go into the matter of his discharge from the navy, which was nearly 20 years ago.

(Testimony of J. W. Carr.)

Mr. Williams: Just one more word. The reason we think we are entitled to this is this evidence that he was a good seaman that he himself brought into the record. He went back 25 years ago, I guess, or more, and those things were all brought into this record to show his long and able service as an able seaman or as a boatswain or as a quartermaster. They were brought in for that purpose. Now if we can go back and prove what those habits were that obtained throughout the period that he testified about we think we ought to be entitled to do it, as affecting the credence to [2109] be placed in his present testimony that he is a good seaman; and he testified to that over and over again. He made a ship's ladder and claimed that he was complimented on it.

Trial Examiner Persons: And the first mate said he made it over.

Mr. Williams: Yes, I believe that is right. But he related his navy experience. I think every seaman is proud of the fact if he has served in the navy, as a teaching school.

Trial Examiner Persons: Judge Williams, I don't want to fall into the error, which would be quite manifest, of making rulings which assume that this Trial Examiner has complete and intimate knowledge of this record, but I do want to ask a question to this effect. You have had considerable experience in maritime practice, I gather?

Mr. Williams: A little.

(Testimony of J. W. Carr.)

Trial Examiner Persons: Aren't you just a little falling into the mistake of applying standards to the seaman, whose highest rank was boatswain, such as would be applied to the master or mate of the vessel?

Mr. Williams: No, I wouldn't say that. As an illustration, I don't believe I could condemn an able seaman if he had been to sea a long time, and he got ashore and got a little high, if he was able to do his work properly when he went back to his watch. I don't think I would condemn him [2110] for that. But if a master of a vessel did that, I might.

Q. Now specifically, if a man, a seaman, whose highest rank was boatswain, 20 years ago was disciplined in the navy, and got a dishonorable discharge, would you hold that against him as a seaman on a Texas Company ship?

Mr. Williams: I would hold it against him, yes. It would somewhat depend on what the cause of that was, the grounds. It would certainly affect his credibility. That would largely depend on the charge and the order.

Trial Examiner Persons: If he had made any claim that he had a perfect record in the navy, yes.

Mr. Williams: And especially if that was followed up by inebriate habits, if that tied on to that, I think it would be of some probative force as affecting his credibility.

Trial Examiner Persons: Can we go on, Mr. Pipkin?

(Testimony of J. W. Carr.)

Mr. Pipkin: Your Honor, if you or I find anything else in this record before it closes——

Trial Examiner Persons: I would be glad to hear it, Mr. Pipkin.

I may say for my own justification in the case of Mr. Buckless I made a special effort to examine the testimony pro and con, because of the conflict, but in the time I had I couldn't go too far with it.

Q. (By Mr. Pipkin) Mr. Carr, would you say that Mr. Rosen and Mr. Zinkiewicz, while they were on the "Washington" and you [2111] observed their daily work, would you say they were good seamen?

A. They may be good seamen, but they didn't show any indication of it there.

Q. And you yourself noticed on various occasions?

A. Well I noticed Mr. Zinkiewicz particularly.

Q. What is your testimony as to Mr. Rosen then?

A. Well I did not have the chance to observe him, because he was on the 8:00 to 12:00 watch; and I was on the 12:00 to 4:00.

Q. Did you ever see him around?

A. I have seen him moving around on deck, but I didn't have a chance to observe his work as I did Mr. Zinkiewicz's.

Q. At the time did you discuss Mr. Rosen with the mate? A. We even discussed the affair.

Trial Examiner Persons: That is hardly an answer to the question.

(Testimony of J. W. Carr.)

A. We even discussed their work.

Q. (By Mr. Pipkin) You even discussed this man's work? A. Yes, sir.

Q. What man do you mean?

A. Mr. Zinkiewicz.

Q. Did you discuss Mr. Rosen's work?

A. I didn't discuss him very much.

Q. What was the nature of your discussion, Mr. Carr? [2112]

Mr. Mandell: We object to that, Mr. Examiner, as the rankest sort of hearsay.

Trial Examiner Persons: Objection overruled.

Q. (By Mr. Pipkin) Go ahead.

A. The nature of his work, and that he seemed to be lying down on the job and not working as the other fellows were.

Trial Examiner Persons: Could you give a specific instance, Mr. Carr?

A. Where he was sitting down on his job, not doing anything, and the other fellows seemed to be working.

Q. I mean can you tell in reference to a specific job?

A. Well at practically everything that he was doing.

Q. (By Mr. Pipkin) Do you recall any specific instance?

A. No, sir, not any specific cases.

Mr. Pipkin: That is all.

(Testimony of J. W. Carr.)

Cross Examination

Q. (By Mr. Martin) Mr. Carr, did you ever recommend to the mate or the captain that Buckless be fired?

A. No, sir. That is not my duty. [2113]

Q. You were for giving him another chance?

A. I have no authority for that whatever.

Q. No authority to make a recommendation to the master?

A. That is a proposition for the master.

Q. You have the power to recommend that a man be fired?

A. I wouldn't call that the power at all.

Q. You have the right? A. No, sir.

Q. You have the privilege?

A. I don't have either the right or the privilege. I could recommend that this was a good man to stay off, and if it was all right with the master, it will be all right, and if not it would not be.

Q. You could point out to the first mate or the master that the man was a good seaman?

A. I could do that.

Q. You could point out that he was a bad seaman?

A. In fact, anybody could say that to the mate.

Q. Likewise, you could say you think he ought to be fired?

A. No, sir, I wouldn't say that.

Q. You didn't, or you couldn't?

A. I didn't.

(Testimony of J. W. Carr.)

Q. The question is, could you?

A. I could say anything I desired, perhaps.

Q. You could say to the captain, couldn't you, I think this [2114] man ought to be fired?

A. In answering your question——

Q. The answer to that question is yes?

A. No. I say I could.

Q. But you never did to either the mate or the captain concerning Buckless?

A. No, sir. That is not my duty.

Q. Did you concerning Zinkiewycz or Rosen?

A. No, sir.

Q. And you did not recommend that Buckless should be fired? A. No, sir.

Q. Despite the fact that he let go the wheel and that he ran zigzag across the open sea?

A. That is right.

Q. If you wouldn't recommend that a quartermaster be fired when he can't even steer the boat straight—— A. I don't recommend.

Q. Under what circumstances would you ever see the captain?

A. I just merely report the fact to the captain, and that is entirely up to the captain to fire that man himself. That is what I do.

Q. When did you first notice Buckless steering a zigzag course?

A. On the second trip on the first voyage; that is, the trip coming home from the first voyage. He did fairly well [2115] going north.

(Testimony of J. W. Carr.)

Q. Did you report it to the captain at that time?

A. Yes, sir.

Q. Immediately? A. I did.

Q. Did the captain or not fire him?

A. No, sir.

Q. Is it a serious thing for the quartermaster to steer a ship in a zigzag course?

A. It is quite serious, provided you are close to shore. You could run the ship aground; a very serious matter.

Q. Also it is wasteful?

A. It could be, if you go into details.

Q. It increases the possibility of accidents on the sea?

A. It would, providing there is traffic.

Q. Now it is dangerous also to let a quartermaster who zigzags on a course take a boat down a channel into the harbor? A. It would be.

Q. It would be more dangerous than on the open sea, wouldn't it? A. It would be.

Q. But nevertheless Buckless piloted the boat, or rather was at the wheel of the boat that went into Claymont, Delaware, on the second trip? [2116]

A. That is right.

Q. Even though you had noticed him on the return trip?

A. I do not wish to say that he cannot steer a boat. I do say that he does not steer a good course at sea. When he has his mind to it he can steer.

(Testimony of J. W. Carr.)

Q. Then it is a matter not of his ability and his seamanship and sailorship, but whether or not he has a mind to? A. You may call it that.

Q. Whether he wants to steer straight?

A. It may be that. I don't know, but that is the way it happens.

Q. Well it is in Buckless' case?

A. He came up the channel all right. I had no complaint. But at sea he just let it go.

Q. Is it your testimony that when he wants to he can steer as well as any other seaman?

A. I don't say that, but he managed to bring it in.

Q. When he wants to he can steer a straight course, is that right?

A. I wouldn't say that, no.

Q. He can steer a straight course at any time when he wants to? A. I wouldn't say that.

Q. Will you explain in your own words what you mean?

Trial Examiner Persons: Explain to me what you mean. [2117] Will you state the best way you can what you think about Buckless' ability to steer a boat?

A. I don't think he is capable.

Q. (By Mr. Martin) You don't think he is?

A. No, sir.

Q. Now were you on the SS "Washington" in February and March of 1937? A. Yes.

(Testimony of J. W. Carr.)

Q. Were you on the same watch with Buckless then?

A. I don't recall when he was there.

Q. He was there from February 20 to March 8, 1937.

A. I don't remember.

Q. You don't remember whether he was on the same watch you were or not?

A. I don't remember that.

Q. Trial Examiner Persons: If he had been quartermaster on your watch you would remember it, wouldn't you?

A. I know that he was telling me that he was there, but I couldn't remember the incident.

Q. You don't remember anybody's report to you in February and March, 1937, that Buckless was a poor quartermaster?

A. I don't remember that.

Q. And when Buckless got on the "Washington" in 1938 neither Mr. Johannesen, the first mate, nor Captain Bergman, the captain, reported to you that you should watch that man [2118] Buckless because he is a poor quartermaster?

A. No, sir, they didn't report that.

Q. When did you ask Zihrl if Buckless had paid him?

A. I asked him a day or two afterward if he was going to pay him, and he said no, he hadn't paid him.

Q. A day or two after the event?

A. Yes, sir.

(Testimony of J. W. Carr.)

Q. And was Zihrul sore at Buckless at that time? A. Well he didn't like it much.

Q. Had there been a draw between when Buckless missed his watch in Claymont and the time you spoke to Zihrul?

A. What do you mean by draw?

Q. That is a seaman's term. You know what that means? A. No, I don't believe I do.

Q. Drawing some money.

A. Drawing money, that is it?

Q. Advance wages.

A. They may have drawn some money. I don't remember.

Q. Was there a draw between Claymont and the time you talked to Zihrul? A. No.

Q. Was there a draw at Claymont?

A. There was, if I recall right.

Q. Did you ever ask Zihrul after that if Buckless had paid him? [2119]

A. I asked him before we arrived again, and he said, no, he never mentioned it.

Q. What does a quartermaster do in port, Mr. Carr.

A. He works with the mate on watch, under orders of the mate, helping discharge, taking care of the gangway, lines and so forth.

Q. Does he do any painting? A. No, sir.

Q. Does he do any sooging? A. No, sir.

Q. Does he go over the side and paint?

(Testimony of J. W. Carr.)

A. No, sir.

Q. Did you ever have any quartermaster go over the side and paint? A. No, sir.

Q. Do you remember the time when the vessel was at Port Neches, just after it left Port Arthur at the beginning of the second trip, and Mate Johannesen told you to tell Buckless to go over the side? A. No, sir.

Q. You don't remember that?

A. He didn't tell me to tell him to go over the side. He didn't tell me anything.

Q. You mean with reference to Buckless?

A. Yes, sir. [2120]

Trial Examiner Persons: You mean with reference to Buckless, he didn't tell you anything?

A. Yes, sir.

Trial Examiner Persons: Unquestionably he must have told you many things.

Q. (By Mr. Martin) Where was the mate when the mate told you to tell Buckless to go over the side?

A. I don't recall any incident where he told me to tell him to go over the side.

Q. Now do you remember any single instance wherein Zinkiewicz was noticeably slacking in his work?

A. Once or twice; a few times in chipping on deck.

Q. What was he doing that was slower than the others?

(Testimony of J. W. Carr.)

A. Just sitting there; didn't seem to be doing anything.

Q. Where was he sitting? A. On deck.

Q. What trip was this, and where was the boat, and what time of day was it? A. At sea.

Q. Where was the boat?

A. The boat was at sea, on voyage going north.

Q. First trip? A. First trip.

Trial Examiner Persons: First voyage?

A. Yes, sir. [2121]

Q. (By Mr. Martin) What were the other A. B.'s doing?

A. They were all working together.

Q. What was Zinkiewycz supposed to be doing?

A. Supposed to be chipping the deck.

Trial Examiner Persons: Chipping?

A. Yes, sir, rust.

Q. (By Mr. Martin) Isn't it a fact, Mr. Carr, that a sailor will take a minute or two out to take a little rest once in a while if he is chipping the deck? A. I suppose so.

Q. Don't they all do that? A. Right.

Q. You don't expect to have them work every minute of the four hours they are supposed to be working?

A. No, sir, we would not require that, not necessarily.

Q. Isn't it a fact that Zinkiewycz at that time might have been taking a minute or two out?

(Testimony of J. W. Carr.)

A. He couldn't have been the entire four hours.

Q. You mean you have seen him sit there when he was supposed to have been working four full hours? A. No, sir, not four full hours.

Q. No.

A. I didn't say that he sat there and didn't work for four hours. I did say that he was not doing nearly as much work as the others. It was that noticeable. [2122]

Q. What was noticeable, you mean?

A. A man working, you will notice two or three working, and when one is not working it is noticeable.

Q. What did you do in this particular instance we are talking about?

A. I didn't do anything about it.

Q. Wasn't he working under you as second mate on the ship? A. No, sir, absolutely not.

Q. Who was he working under?

A. Under the chief mate and boatswain.

Q. Did you point out to the mate that he was working there slowly? A. I did not.

Q. Or the boatswain? A. No, sir.

Q. The boatswain is the boss of the ordinary seamen and the A. B.'s on a job like that, isn't he?

A. He receives orders from the mate.

Q. And gives them to the A. B.'s and ordinaries? A. That is right.

Q. Now what was the other instance that you mentioned when you saw Zinkiewycz slacking?

(Testimony of J. W. Carr.)

A. Well practically all the work they did it was noticeable, whether they were sooging, chipping or what.

Q. Did you ever mention it to the mate or the captain? [2123] A. No, sir.

Q. Even though you noticed it?

A. I did. Because it was not my work. It was on deck.

Q. So, so far as you personally know, any slacking on the part of Zinkiewycz did not contribute to the reasons as to why he was discharged, is that correct?

A. Well I don't know. I imagine it did.

Q. As far as you personally know, you don't know, do you? A. I don't know that.

Q. And it is your testimony, is it, that you never saw Rosen slacking in his work?

A. I wouldn't say that.

Q. Well did you ever see Rosen slacking in his work?

A. I didn't pay any particular attention to it.

Q. Or lagging in his work.

A. Because I sleep in the morning, and that is when he worked, from 8:00 to 12:00, in the morning.

Q. It is your testimony that you never did see him?

A. I have seen him when he would be on deck, but I didn't have time to pay any attention to his work.

(Testimony of J. W. Carr.)

Q. So that you have never seen him lagging in his work.

A. I wouldn't say that. I would say I never noticed him working.

Q. Answer this question "yes" or "no." Have you ever seen J. Gordon Rosen lagging in his work on the SS "Washington" in [2124] 1938?

A. I couldn't say that, because I have never seen him work. How could I?

Q. Answer that question "yes" or "no." Please read it back to him, Mr. Reporter.

(Question read.)

Mr. Pipkin: I think the record is clear.

Trial Examiner Persons: I think the record is clear. I think Mr. Carr has displayed a little excess of caution. Read the question back, Mr. Etter.

(Question read.)

A. Well I will say, no, in that case.

Q. (By Mr. Martin) Did you ever attend any union meetings on the "Washington"?

A. No, sir.

Q. Did you see a sign advertising the fact that there would be a meeting? A. I did.

Q. Did you see a number of signs? A. Yes.

Q. During what period of time were union meetings held on the "Washington"?

A. I don't know what time it was. I just noticed the sign.

Q. How long were you on the "Washington" in 1938?

(Testimony of J. W. Carr.)

A. I have been there for quite a few years.

[2125]

Q. I beg pardon?

A. I have been there quite a few years.

Q. And you were on the "Washington" during the entire period or month in 1938 up to and including July 14, 1938, were you? A. I was there.

Q. Did you ever see any notices of union meetings prior to June 2, 1938?

A. I don't remember if I did or not.

Q. What percentage of the deck force were members of the union? A. I don't know.

Q. Prior to June 2, 1938? A. I don't know.

Q. What percentage of the deck force were union members between June 2 and July 14, 1938?

A. I don't know.

Q. What do you think?

A. You mean how many do I think?

Q. Yes. A. I don't know.

Mr. Williams: Your Honor, I think we should except because it is purely speculative, and has no probative value in this case.

Trial Examiner Persons: Objection overruled. The record [2126] will stand.

Mr. Martin: That is all I have at this time, Mr. Examiner.

Trial Examiner Persons: Mr. Mandell.

Q. (By Mr. Mandell) Just two or three questions, Mr. Carr. I believe you testified that the

(Testimony of J. W. Carr.)

master of the ship discharges all men who are to be discharged?

A. The master and the mate. It is between them.

Q. Or the chief mate?

A. Not all men in the engine department, nor in the steward's department.

Q. Only the deck department, is that your testimony?

A. That is what I am referring to, yes.

Q. Now could you tell us at the time Mr. Buckless missed his watch, where was the vessel?

A. In Claymont, Delaware. [2127]

Q. What time did the vessel leave that port?

A. Between 4:00 and 8:00, on July 5.

Q. Between 4:00 and 8:00? A. A. M.

Q. Would you say it was very much before 8:00 o'clock?

A. It was perhaps 6:00 o'clock, or something around there. I wouldn't say exactly.

Q. Around 6:00 o'clock in the morning?

A. I would say something like that.

Q. In your experience as a mate on the "Washington" have you ever taken on seamen at a port other than Port Arthur? A. Yes.

Q. Have you ever discharged seamen at a port other than Port Arthur?

A. I have never discharged anybody.

Q. When I say, have you, I mean the ship as a whole. Have seamen ever been discharged at a port other than Port Arthur?

(Testimony of J. W. Carr.)

A. Men have gotten off to go to hospitals, and was practically discharged, and some missed a ship.

Q. And some have sometimes violated some ship rule, and the master just discharged them, and got another man?

A. It is the rule to bring them back to Port Arthur.

Q. Suppose a man violates one of the shipping rules, is he discharged other than at Port Arthur?

A. It is a rule mostly to bring the men back to where they [2128] sign on.

Q. Even though they prove incompetent and they are unsafe for the ship?

A. It all depends on what the nature of the case is.

Q. Suppose a man, a quartermaster, steers a vessel off in the breeze——

A. Yes.

Q. Would you consider that man very unsafe? You would consider him a very unsafe man, wouldn't you?

A. You could reprimand him, and give him a chance, and perhaps he will do better.

Q. I asked you would you consider a man who steers a ship off course ten degrees, would you consider him an unsafe man at the wheel?

A. No, he is not safe. You can watch him and make him stay on the course and do better.

Q. Of course, if you have to keep a mate there to watch him, the mate might as well stay. Could

(Testimony of J. W. Carr.)

you safely leave a quartermaster at a wheel who steers a ship ten degrees off course?

A. If I am there I can watch him all the time.

Q. Are you there all the time?

A. When I am on watch, yes.

Q. On the watch that Mr. Buckless was on, you were there all the time, were you? [2129]

A. On the bridge, yes.

Q. And that is how you got off ten degrees?

A. No. I am on the top bridge.

Q. You didn't help him get off ten degrees, did you? A. No.

Q. At any rate, we do agree it is very dangerous to have a quartermaster steering a ship that would get off the course as much as ten degrees?

A. It would be if he continued that way through-out, yes.

Q. In 1938, June and July, 1938, would you say from your experience there was any scarcity in getting good quartermasters in any port in the United States? A. Well, I don't know.

Q. Have you ever had any difficulty getting quartermasters anywhere?

A. I don't hire the men. I don't know.

Q. Any time there was need of a quartermaster aboard the ship he was always gotten?

A. I think so.

Q. There was no difficulty, so far as you know?

A. I don't think so.

(Testimony of J. W. Carr.)

Q. However, Mr. Buckless remained there for some time. Is it very unusual for one seaman to stand watch for another seaman, sort of help him out?

A. It would be. It is not unusual providing he gets permis- [2130] sion from the mate.

Q. I didn't ask you anything like that at all. Just answer my questions.

Trial Examiner Persons: Just ask questions please.

Mr. Pipkin: We object to the side bar comments of counsel.

Trial Examiner Persons: The examining attorney will be instructed to confine his remarks to the asking of questions.

Q. (By Mr. Mandell) Now, I just want you to answer my question. Is it unusual for a seaman to stand watch for another seaman?

A. A seaman is not allowed to stand watch for another unless he has been instructed by the mate to do so, or has permission.

Q. Is it very unusual for one seaman to stand watch for another?

A. It is very unusual.

Q. You have never seen it done?

A. It has been done.

Q. As a matter of fact, it is often done?

A. No, it is not.

Q. You came up from the ranks?

A. What do you mean?

(Testimony of J. W. Carr.)

Q. Did you ever serve as an ordinary seaman, able seaman and quartermaster? [2131]

A. Yes, sir.

Q. Did you ever stand watch for another man?

A. I have.

Q. Did you ever have another man stand watch for you?

A. If we had it prearranged, yes.

Q. Did any other man ever stand watch for you?

A. If we prearranged it.

Q. You have seen seamen who came back aboard the ship so drunk that they couldn't stand their watch, and another one of their fellow seamen would take his watch?

A. He would have to suffer the consequences if he did.

Q. Have you ever seen that? A. I have.

Q. And you have seen that seaman remain aboard the ship?

A. Sometimes, and sometimes, no.

Q. Now, where is this port of Claymont?

A. It is port of discharge for The Texas Company, Claymont, Delaware.

Q. Is that inland waters? A. It is.

Q. Now, steering in inland waters is more difficult than on the open sea?

A. Securing the dock, you mean?

Q. No. Proceeding up in inland waters.

A. It might be easier to steer a ship. [2132]

Q. How is it around Claymont?

(Testimony of J. W. Carr.)

A. There is plenty of space. It is easy to steer; calm water.

Q. Easier than out in the open sea?

A. It would be, depending on the nature of the sea and the current.

Q. Let me ask you this. From your experience as a navigator, isn't it true that when vessels are in inland waters extra precaution is taken in steering the ship? A. Yes.

Q. Why?

A. It depends on the channels. Where there are narrow channels, and current running, it would be easier to ground the ship.

Q. Isn't it true that, for instance, you never let an ordinary seaman steer a vessel in inland waters?

A. According to law, no, but he may be capable.

Q. I am talking about as a navigator, what the law says. An ordinary seaman is not permitted to steer a vessel in inland waters, that is true, isn't it?

A. Yes.

Q. It requires a capable A. B. or quartermaster to steer a vessel in inland waters? A. Yes.

Q. That is true, isn't it? A. Yes, sir.

[2133]

Q. Certainly you wouldn't let an incompetent man, that you know is incompetent, steer a vessel in inland waters, would you?

A. No, I couldn't.

Q. And you certainly would not let a man,

(Testimony of J. W. Carr.)

though competent, who is careless steer a vessel in inland waters, would you? A. No.

Q. Now, Mr. Carr, assuming that Mr. Buckless was as drunk as you say he was, would you let him stand watch?

A. Not if he was drunk, no.

Q. What would you do? Suppose he would come back to the ship drunk, and feeling it was his duty, that he ought to stand watch, he wanted to stand watch, what would you do?

A. I would tell him the best thing for him to do would be to go to bed.

Q. And you would get someone else——

A. Yes, sir.

Q. To take his watch? A. Yes, sir.

Q. That is exactly what happened, with the exception that you didn't tell him to go to bed?

A. He did not. When I came out on deck he was out.

Q. If he had come aboard drunk and reported to get ready for watch duty you would have told him to go to bed?

A. Well, if I thought he was in danger of endangering him- [2134] self or someone on deck.

Q. You wouldn't let a drunk man stand watch, would you? A. No.

Q. You would have told him to go on and go to bed? A. Yes, sir.

Q. Neither would you let a man who is habitually under the influence of liquor steer your ship?

(Testimony of J. W. Carr.)

A. Not if he was drunk, no.

Mr. Mandell: I think that is all.

Q. (By Trial Examiner Persons) Mr. Carr, for the benefit of the record and the benefit of all of us landsmen who have to read the record, will you describe what is meant by sooging right now?

A. It is a solution of soap and water to wash, like we do this wall, used to wash down a ship.

Q. Used to wash down the ship?

A. That is right, paint work.

Q. In regard to your responsibility for your men on your watch, it is your duty to report to the mate anything that they do that is worthy of notice, is that right? A. Yes, I could.

Q. I said that is your duty to do it.

A. No, sir.

Q. How do those men get credit, if the mate who is on watch does not report it? [2135]

A. As a rule, as I say, the mates do report that he is a good man, or is not. However, I do not say that is their duty.

Q. It is customary at least?

A. You might say customary, yes, sir.

Q. In the same way, is it customary, or is it the duty of the mate to report things that they do which will stand against their record on the ship?

A. It is the duty to report any unusual happenings during the watch to the mate and master that would be dangerous to the ship or the cargo.

(Testimony of J. W. Carr.)

Q. Well, if you had a man rated as an A. B., and he was a capable seaman, would it be your duty to report that to the master?

A. It would not be my duty. I could.

Q. I take it you probably would?

A. I would probably.

Q. My difficulty is this. The situation on ship-board is a bit different from the situation in a factory? A. Yes, sir.

Q. The mate runs the crew on deck, the deck crew? A. Yes, sir.

Q. The captain has the right to hire and fire?

A. He is in command of the ship, yes, sir.

Q. If a man is put on he goes up to the captain and the [2136] captain signs him on?

A. Yes, sir.

Q. The work on the ship is divided into watches?

A. Yes.

Q. As second mate, you have charge of a watch?

A. Yes, sir.

Q. And as the mate on that watch you have knowledge of the capacity and the service of the men on that watch? A. Yes, sir.

Q. And you have knowledge of the credible things that they have done, and of other things that they do; and it is your duty as second officer to inform the mate and the captain about the members of your watch?

A. It is like working in a factory or anything else. If a man is a foreman, and somebody stands

(Testimony of J. W. Carr.)

out in the crowd, if he wishes to recommend him, and say he is a good worker, he may do so; and, if not, that is usually the way it goes.

Q. If a second mate were to perform a highly meritorious act, known only to the first mate, and the first mate did not report it to the captain, would that second mate be entitled to feel aggrieved?

A. Well, that happens.

Q. Yes, I know it does, wherever there are men at work. A. Yes.

Q. But it is a duty of the first mate to let the captain know? [2137]

A. He is the superior of the second mate.

Q. Isn't it your duty in the same sense to see that the men are credited with meritorious things they do?

A. When he is working under my command, I do, yes.

Q. Changing over to the matter of the ten degrees, which has doubled since yesterday, when we had five degrees in course—I think you seamen have not given credit to the Trial Examiner because he is a landsman. I want you to lay ten degrees down, just straight; just take a straight line, like straight down the street, and lay down an error of ten degrees.

A. Lay down an error of ten degrees?

Q. Yes, and tell me how far you would have to go on that wrong course before you would be a mile off your course.

(Testimony of J. W. Carr.)

A. They would not have to go very long; about half an hour.

Q. If you can make a ten degree error on one side you can make a ten degree error on the other side?

A. Yes, sir.

Q. And you have got twenty degrees error?

A. Yes, sir.

Q. As a matter of fact, is it possible for any man rated as a quartermaster to be ten degrees off course?

A. It is a fact; in fact, farther, some of them. It is quite easy to get that far off. It depends on the nature of the sea and so on, but it happens often. [2138]

Q. Nothing was said in this connection about there being hard conditions, and as far as the record goes, we assume it was a calm clear night. The captain yesterday said about five degrees, by the wake, you stated ten degrees off, by compass?

A. Yes, sir.

Q. Is that right?

Mr. Pipkin: Mr. Examiner, I hate to interrupt at this time. Yesterday the captain, as I recall, said it was reported.

Trial Examiner Persons: No, he said he didn't need to be on the bridge; that he could look at the wake.

Mr. Pipkin: But I also recall the testimony showed it was reported to him that he was off the course.

(Testimony of J. W. Carr.)

I want to take an exception in the record at this time to the Examiner's comment on the matter, and the manner in which it was said in examining this witness.

Trial Examiner Persons: The exception will be noted. But I just remark that it doesn't greatly matter, as the witness agreed with the Examiner.

Q. I said if he could be off ten degrees one way he could be off ten degrees the other, is that correct?

A. Yes, sir, he could.

Q. One more question. I confess I am not satisfied, Mr. Carr. What degree of accuracy is it fair to expect from [2139] a capable quartermaster in steering the course laid down?

A. Two degrees, something like that, because the gyro compass, Iron Mike, goes over two degrees to one side.

Q. A capable really competent quartermaster, a man to be rated really a quartermaster, if he kept it at all times within two degrees of the course set, that is all right?

A. Yes, that is a good course.

Q. That would be good seamanship?

A. Yes, sir.

Q. About Mr. Zinkiewicz and his alleged incompetency, the question is based on the fact that the Trial Examiner has not seen the man. What was he like, was he naturally a slow thinking, slow moving man?

(Testimony of J. W. Carr.)

A. He appeared to be intelligent, but moved very slowly.

Q. Habitually? A. Yes, sir.

Q. Would you say that he seemed lagging in his work, and what you noticed was due to this characteristic, or that he was consciously shirking?

A. I would think it was consciously shirking.

Q. Would you say that he shirked his work habitually, or that he did it on occasions?

A. I think that he was capable, but I believe he did it on occasions.

Q. In your experience at sea, how seriously has the offense [2140] of missing a watch due to unwise indulgence in alcoholic beverages been considered?

A. It all depends. It is just like anything else. If you go and get tight, and have no more respect for your job, you might lose it.

Q. Would you say it was usual for a man that had been guilty of such to be dismissed?

A. It happens quite often.

Q. Is it usual?

A. Yes, sir, nowadays.

Q. Would you say the offense was less great if it happened while the ship was in port than if it happened while the man was expected to stand watch at sea?

A. At sea it would probably have a greater effect than at port. It all depends on their navigation of the ship.

(Testimony of J. W. Carr.)

Q. Would you say, based on your observation and experience, that the average captain, in passing judgment on such an offense, would mitigate his judgment somewhat if it happened on a holiday, July 4?

A. That is entirely up to the captain, I am sure.

Q. As a matter of observation, do they usually deal less harshly if they are guilty of that on holidays than on other occasions?

A. Well, if a man had a duty to perform, I should not think so. [2141]

Q. No allowance would be made?

A. I do not believe so.

Q. Were there union meetings held on the "Washington" during the time these men were aboard, Buckless, Zinkiewicz and Rosen?

A. I understand there were. However, I don't know. I never attended one.

Q. If it were not a Trial Examiner, but the captain, asking you whether they had union meetings, what would you have said?

A. Well, I never attended.

Q. What would you have told the captain?

A. It is only hearsay that they were. I have been told that there were meetings there.

Q. You saw the notice?

A. I saw the notice, yes.

Q. Who told you there were meetings held?

(Testimony of J. W. Carr.)

A. I often hear them discussing it. The sailors see me, and say so.

Q. Did you ever talk to any of the men personally and have them tell you that they had been attending meetings?

A. Yes, sir, they told me that they had attended meetings.

Q. Did any of these three men concerned here directly, Buckless, Zinkiewycz or Rosen, tell you that they had attended union meetings?

A. Yes, sir. [2142]

Q. Which one?

A. Buckless, my quartermaster, told me he attended meetings.

Q. He told you? A. Yes, sir.

Q. Neither of the other two?

A. Well, I didn't have a chance to talk to them.

Q. They were not on your watch?

A. Zinkiewycz was, of course.

Q. But you were on the bridge, and he was on the deck? A. Yes, sir.

Q. You yourself belong to a union?

A. No, sir, not at the present time.

Q. You do not belong to the Mates' Union?

A. Not at present.

Q. Would you say there is room for union organization on shipboard, Mr. Carr?

A. Not knowing, I couldn't say.

Q. Pardon?

(Testimony of J. W. Carr.)

A. I couldn't say. It seems to me that they are pretty well organized, so far as the "Washington" is concerned. Other ships, I don't know whether they are or not.

Q. You have sailed on ships on which there was a union organization?

A. There was on the "Washington", yes, sir, before I became mate. [2143]

Q. Since you became mate?

A. Just on the "Washington." I became mate on the "Washington."

Q. Would you say a union might perform a useful function on board ship?

A. Well, I don't know. It seems to me that everything is all right.

Q. To be more specific, if the men have a union organization, and they have a union meeting, and they decide they have a justified complaint about the food, and they appoint delegates to see the captain, that is quite correct? A. They do.

Q. That is quite correct in your estimation?

A. It has been carried on that way for years, without unions.

Q. It is nothing new? The only thing new is the permanent organization of the union?

A. Yes, sir.

Q. Men have presented such complaints from time immemorial? A. Yes, sir.

Q. And that is quite correct procedure?

A. It has been and I think it is, yes, sir.

(Testimony of J. W. Carr.)

Q. You see no objection to that sort of thing?

A. No, sir.

Q. If the complaint was not based on food or quarters, but [2144] was based on overtime pay, would you say there was anything wrong in that procedure?

A. It all depends on the nature of the pay and what it was for, if they were justified.

Q. If they just sincerely thought they were justified?

A. Well, that is a matter to decide between the two parties.

Q. It would be quite all right for them to take collective action, instead of going singly to the mate and the captain?

A. Yes, sir, I believe that will be right.

Q. Would you say, and I would like you to answer this rather carefully, would you say there was any danger in having union organization on board a ship?

A. Any danger? I don't think so, none whatever. [2145]

Q. As far as you are concerned as second mate, you think you could go on and carry out your duties, and get along with the members of your watch, with a union organization aboard?

A. I manage to get along with everybody, so it wouldn't make any difference to me.

Trial Examiner Persons: Mr. Pipkin, anything further?

(Testimony of J. W. Carr.)

Mr. Pipkin: Judge Williams has something in mind that he wants to ask him, if there is no objection.

Trial Examiner Persons: The general rule is one man to examine, but I take it that under the conditions, Mr. Van Dusen being away, the other attorneys will agree.

Mr. Martin: That is quite satisfactory.

Trial Examiner Persons: Very well.

Redirect Examination

Q. (By Mr. Williams) Mr. Carr, tell the Examiner where Claymont, Delaware, is, geographically, on some stream?

A. On the Delaware River, below Marcus Hook.

Q. How far is Claymont from the open sea?

A. Seventy-five miles.

Q. Those are called inland waters, are they not?

A. Yes, sir.

Q. Do you take a pilot? A. Yes.

Q. Where did that pilot get on?

A. At the sea buoy at the bar. [2146]

Q. Where did they get on coming out?

A. At the dock.

Q. How long does he stay on that vessel?

A. Until the vessel has cleared the sea buoy.

Q. Until the vessel strikes the high seas?

A. Yes, sir.

Q. Tell the Examiner whether or not the navigation channels from Claymont, Delaware, to the

(Testimony of J. W. Carr.)

open sea are marked with what is known as aids to navigation? A. Yes, sir.

Q. Lights, buoys and so forth? A. Yes, sir.

Q. Is that true or not true?

A. That is true.

Q. Tell the Examiner where the pilot takes his station when you are coming down the river.

A. Takes his station on the bridge by the quartermaster. Sometimes he steers himself.

Q. Sometimes he steers himself?

A. Yes, sir.

Q. Now is it a fact or is it not a fact that in coming down that river to the open sea you steer by courses, or do you steer by the aids to navigation?

A. Steer by the aids to navigation.

Q. All right, tell the Examiner who gives the orders about [2147] changing the wheel?

A. The pilot.

Q. To port or to starboard?

A. The pilot does.

Q. What does he say to the quartermaster when he wants him to move the wheel over a little bit?

A. Tells him right or left, or stay on this range.

Q. Then it is a fact, is it not, that the only function performed by that quartermaster in getting down the river with a pilot aboard is that he furnishes the physical effort to move that wheel?

A. That is it.

(Testimony of J. W. Carr.)

Q. (By Trial Examiner Persons) Did Mr. Buckless steer under the direction of the pilot when you were present on the ship? A. Yes, sir.

Q. Did the pilot make any comment to you about Mr. Buckless' steering?

A. I don't recall now if he did.

Q. (By Mr. Williams) To clear that point up, that quartermaster, in getting down the river under the direction of the pilot, is he required to observe the compass at all?

A. It all depends. If we should hit fog——

Q. But ordinarily? A. Ordinarily not.

Q. He doesn't use a compass? [2148]

A. He can use it, but he usually uses the aids to navigation, where there are ranges to steer on.

Q. Markers, usually known as markers?

A. Yes, sir.

Q. From marker to marker? A. Yes, sir.

Q. You pass one marker on one side or the other? A. Yes, sir.

Q. At a certain distance? A. Yes, sir.

Q. And the pilot is the one that gives those orders, is he not? A. Yes, sir.

Q. All right, when you reach the open sea, what is called the high seas—— A. Yes, sir.

Q. Do you mean to say that they would get off ten degrees and stay off, or just wiggle off?

A. Just wiggle off.

Q. In other words, it would only be off ten degrees for a very few minutes, perhaps?

(Testimony of J. W. Carr.)

A. Maybe not that; back and forth.

Q. Until he noticed it himself, or the mate called attention to it?

A. I called attention to it a number of times. Sometimes he [2149] would notice it himself.

Q. In other words, in getting off that course the quartermaster sees it sometimes?

A. Yes, sir.

Q. And he is going to try to get back?

A. Yes.

Q. Then when the quartermaster zigzags back and forth on that course it indicates he is not giving strict attention to his course as given to him? A. That is right.

Mr. Martin: I would like to know whether counsel is testifying or asking questions or what.

Q. (By Mr. Williams) What does it indicate?

A. It indicates he is not paying attention to his steering.

Q. What does that indicate?

A. Indicates he is not paying attention to his course.

Q. Tell the Examiner this, the quartermaster on duty, is he or not supposed to keep his hands on the spokes of the wheel at all times?

A. Supposed to keep them there at all times.

Q. When can he leave the wheel?

A. Only when he is properly relieved.

Mr. Williams: That is all.

Q. (By Mr. Pipkin) As I recall your state-

(Testimony of J. W. Carr.)

ment, you said five to ten degrees. Was it always ten degrees? [2150]

A. Not always. It may sometimes be four, or three, or ten.

Q. Well what was the average of the times you saw Buckless off his course, what would you say would be the average variance?

A. Between two and ten. It might average six or seven degrees, or five degrees, the average.

Q. Well for us landlubbers, as the Examiner calls us, a man off his course five degrees, and he was checking himself, how far would he ordinarily go before he corrected it?

A. Before he came back on the course?

Q. Before he came back on the course.

A. Well it would not take but a very little while, if he was a mind to put it back on the course.

Q. When Buckless was standing with his hands on the wheel and paying attention to his work he could stay fairly close to the course?

A. Fairly close, yes.

Q. And when he did pay attention did he stay fairly close to his course? A. He did.

Q. That compass is right there before him, with a light under it at night?

A. It is, yes, sir.

Q. Did you report his missing this watch to the captain? A. I did.

Q. The Examiner asked you the difference between getting drunk at port and at sea. Is it customary for a man to get drunk at sea?

(Testimony of J. W. Carr.)

A. No, sir.

Q. Isn't that rather an exception?

A. It is a rare exception to get drunk at sea.

Q. What is your union affiliation, Mr. Carr?

A. I used to belong to the Seamen's Union when I was on deck.

Mr. Pipkin: I believe that is all.

Recross Examination

Q. (By Mr. Martin) Mr. Carr, on the open sea what is the function of the mate up on the bridge with the quartermaster, what does the mate do there?

A. He is in charge of that watch and assists in navigating the ship to the best of his ability, to see that a good lookout is kept, that the quartermaster steers a good course while he is on watch.

Q. Is the steering wheel on the bridge?

A. There are two, on some ships, on the top bridge and in the wheel house. Of course it would be on the bridge.

Q. When you use the wheel on the bridge——

A. That is the only place we use it, because it is on the bridge. [2152]

Q. When do you use the one in the wheel house?

A. When the ship is loaded and at sea. But coming into port, and when the ship is light, you can't see.

Q. Is the wheel house below the bridge?

A. The wheel house is on the bridge; and then there is a top bridge on top of that.

(Testimony of J. W. Carr.)

Q. There is a wheel in the wheel house, and another wheel on the top bridge?

A. On this particular ship, yes.

Q. Now is it the duty of the mate on watch to stand over the quartermaster a good deal and help him watch the course?

A. He can see from the compass on top whether he is on or off.

Q. That is, you stay on the top bridge, and the quartermaster is down in the wheel house?

A. On this ship, on the "Washington", yes.

Q. Would that be your custom with Mr. Buckless? A. Yes.

Q. Normally you stay on top, and Buckless would be in the wheel house?

A. Sometimes I might be below in the wheel house, and sometimes I am on top.

Q. Now isn't it a fact that the quartermaster has no discretion as to turning the wheel? Isn't he supposed to keep it a certain way until you change the course? [2153]

A. If he is given a course he steers that course until given orders to change the course.

Q. He does not have any discretion about what course he will keep the boat on, does he?

A. If he is ordered to steer a certain course that is the course he will steer.

Q. That is right. Now what does the quartermaster do on inland waters when there is a pilot aboard?

(Testimony of J. W. Carr.)

A. He receives orders from the pilot.

Q. Just as he receives them from the mate on the open sea?

A. Not the same, no. He receives orders from the pilot, but a different order, because the sea and inland refer to different rules.

Q. Is the mate on watch in the pilot house along with the pilot and quartermaster?

A. Yes, sir.

Q. On boats in inland waters?

A. Yes, sir.

Q. All the time?

A. Yes, sir, there is a mate there at all times.

Q. Isn't it a fact that when the "Washington" is in the lower Delaware Bay at night the pilot gives the quartermaster the course by compass?

A. He could; not necessarily.

Q. Doesn't he, on lower Delaware Bay? [2154]

A. It all depends on the nature of the weather.

Q. What was the weather on the evening, or the early morning hours, of July 4, when Buckless was piloting the "Washington"?

A. He didn't go out until July 5, early morning hours.

Q. But he took the boat in?

A. He was steering by ranges, lights, going up the river.

Q. Isn't it a fact that on the morning of July 4, 1938—

Mr. Pipkin: They went in July 3.

(Testimony of J. W. Carr.)

Mr. Martin: I stand corrected. Thank you.

Q. But they went in during the early morning hours of July 3 with Buckless as quartermaster?

A. You mean docked?

Q. On the 12:00 to 4:00 watch at night.

A. No. Buckless goes off at 12:00 to 4:00. She docked after 4:00 o'clock, I believe it was, in the morning.

Q. How long does it take to get from the ocean to Claymont, Delaware, over that 75 mile stretch?

A. It all depends on how you strike the tide.

Q. How long did it take on the early morning of July 3, 1938?

A. I would have to look that up in the log book.

Q. Roughly, how long?

A. I just don't know what time it did take.

Q. Isn't it a fact that Buckless was piloting that boat, was steering the boat, when it was in lower Delaware Bay that [2155] morning?

A. No, they arrived that evening. Lower Delaware Bay is out in the ocean.

Q. What time that day did the boat leave the ocean and enter lower Delaware Bay?

A. I would have to look that up.

Q. What time that evening did it arrive at Claymont?

A. It did not arrive that evening.

Q. When did it arrive at Claymont?

A. I would have to look it up in the log book.

Q. Do you know when the boat arrived at Claymont, Delaware?

(Testimony of J. W. Carr.)

A. I would have to look it up.

Q. Do you know when the boat arrived at Claymont, Delaware, the 3rd of July, 1938?

A. I think it was around midnight. I am not sure. I would have to look it up to be more definite.

Q. Well the facts are that you don't know when the boat arrived? A. I wouldn't say that.

Q. And you don't know when it went through Delaware Bay on that trip, lower Delaware Bay?

A. It could have been that evening of the 2nd, because it arrived the 3rd.

Q. But you don't know, do you?

A. Not the exact time. [2156]

Q. What is the longest period of time you ever left Buckless in the wheel house alone while you were on the same watch with him during the night time on the "Washington"?

A. Oh, sometimes an hour or two.

Q. Now you say that you were responsible for Buckless steering the boat? A. Yes, sir.

Q. During the two watches that you were on with him, is that correct? A. It is.

Q. Did the captain or the mate ever complain to you that Buckless was not steering a straight course? A. The captain, yes, sir.

Q. Did he correct you for it?

A. He told me to watch his steering and correct him.

Q. Did he threaten to fire you if that steering of Buckless continued?

A. No, sir, he did not.

(Testimony of J. W. Carr.)

Q. And you did not in fact get fired for Buckless' zigzag steering, did you?

A. I have never been fired in my life.

Q. How long has it been since it has become usual to fire men for drinking, from boats?

A. I don't know how long it has been.

Q. Well you said lately it has become usual?

[2157]

A. Ships I have been on, yes.

Q. Does that go back a matter of years?

A. Years.

Q. Or months?

A. Some two or three or four or five years.

Q. Two or three or four or five years?

A. Yes, sir.

Q. And would you say that during that period men have been fired from boats you have been on for drinking more than was customary in your experience prior to that, is that correct?

A. Well it all depends on the type of man he is. If he is once given a chance, and they figure he is not worth while, they let him go.

Q. During that period have you been on Texas Company boats? A. What period?

Q. The last four or five years.

A. Since 1935.

Q. How do you explain that men have been fired from Texas Company boats for drinking during that period more than they were fired from boats that you were on for drinking during previous years?

(Testimony of J. W. Carr.)

A. I am just referring to this ship particularly. I don't know about other ships.

Q. Then is it your testimony that men have been fired for drinking, from the "Washington", during the last two years [2158] that you have been on it?

A. Fired for drinking? No, sir, they are not fired for drinking.

Q. How long in all have you been on the "Washington"? A. I first went there in April, 1935.

Q. 1935? A. Yes, sir.

Q. Had you been on Texas Company boats before? A. No, sir.

Q. Have you noticed a change in the policy at any time since you have been on the "Washington" concerning firing men for drinking?

A. Do you mean from any other ship?

Q. No, on the "Washington".

A. Any change?

Q. Yes.

A. No, sir, it is practically the same.

Q. Well is it your testimony that you did notice a change on the "Washington" from any other boat you were ever on?

A. There might be more discipline; might be enforced more so than on other ships.

Trial Examiner Persons: Will you read the question, Mr. Etter?

(Question read.)

Trial Examiner Persons: More than on other ships? [2159]

A. It might be.

(Testimony of J. W. Carr.)

Q. That is what you said? A. Yes, sir.

Q. (By Mr. Martin) You mean a tougher skipper? A. No.

Q. Harder disciplinarian?

A. I wouldn't say tough. But I do say it might be enforced more.

Q. Please let's not get speculative. We are not concerned with what might be. We are concerned with what was. Now in your experience, is Captain Bergman a stricter disciplinarian than other captains you have worked under?

A. No, sir, not so much. He is stricter than some, and some not.

Q. How do you account for the fact that men were fired on the "Washington" for drinking, and in your experience were not fired from other ships for drinking? A. I didn't say that.

Q. How many men have been fired from the "Washington" for drinking during the last three and a half years when you have been on it?

A. I don't know.

Q. Name any other than Buckless.

A. I don't know.

Q. Can you name me one? [2160]

A. At this particular instance that one is fresh in my mind, and I remember it. The others come and go, and I have forgotten them. I do not recall.

Q. Can you name one?

A. There have been some perhaps, but I have forgotten their names.

(Testimony of J. W. Carr.)

Q. Mr. Carr, I believe you testified, and correct me if I am wrong, that the United States Navigation Laws prohibit the use of any ordinary seamen at the wheel on any inland waters, whether a pilot is on the boat or not. Is that correct?

A. No, I didn't say that.

Q. Is that correct?

A. I didn't say that.

Q. Is that true? A. I don't know.

Q. Well will you tell us what the law is with reference to the use of ordinary seamen to steer the wheel, to steer the boat in inland waters?

A. I could look that up quickly.

Q. Do you know what the law is?

A. I have read it, but I do not recall it now.

Mr. Martin: That is all.

Trial Examiner Persons: I think, unless we can get through with Mr. Carr briefly, we might take a recess now.

Mr. Pipkin: I only have one or two questions.

[2161]

Trial Examiner Persons: I want to ask one question.

Q. Mr. Carr, at all times when Buckless was quartermaster under your supervision the steering gear of the "Washington" was in completely seaworthy condition?

A. Yes, sir. It is tested and examined before leaving each port an hour before leaving port.

(Testimony of J. W. Carr.)

Q. None of that ten degree error could have been due to defects of the steering gear?

A. It was not, on this particular ship, no, sir.

Trial Examiner Persons: Mr. Pipkin.

Redirect Examination

Q. (By Mr. Pipkin) None of the one, to two, to three, to four, to five, to six degree errors would be due to a ship defect, would they?

A. Not on this particular ship, because it was good steering gear.

Q. And when you answered the Examiner's question about ten degrees you meant any variance between? A. Any variance between.

Q. Did you have to be on the bridge to see whether or not the quartermaster was keeping his course? A. It is my duty.

Q. Do you have to be in the wheel house?

A. Not necessarily, because there is a compass on top, and I merely have to look at the compass to see if he is steering [2162] the course.

Q. And a bright night you can also see the wake? A. Yes, sir, you can.

Mr. Pipkin: That is all.

Trial Examiner Persons: Are we through with the witness? You are excused, Mr. Carr.

We will recess at this time for ten minutes.

(Short recess.)

Trial Examiner Persons: I think we are ready.

ERNEST ZIHRUL

a witness recalled by and on behalf of the Respondent, having been previously sworn, was examined and testified further as follows:

Recross Examination

Mr. Martin: I am recalling the witness with Mr. Pipkin's permission to ask him a couple more questions.

Q. Mr. Zihrul, you testified yesterday concerning union meetings while Rosen, Zinkiewicz and Buckless were aboard the "Washington" in 1938. Now did the union meetings continue after those three men left the boat?

A. That I couldn't tell you, because I left the forecandle and went on the bridge as second mate.

Q. But after that did you continue talking with the men that you had previously worked?

A. No, not as I had usually done, because it is not the [2163] custom for officers to go aft and mingle with the crew.

Q. Well did you stop talking with them, stop knowing anything about whether they had meetings?

A. I didn't go aft hardly any time to talk with the crew.

Q. Well now did you attend any meetings after these three men left the boat? A. No, sir.

Q. And did you see any notices of meetings after they left the boat? A. Yes, sir.

Q. You did? A. Yes, sir.

(Testimony of Ernest Zihrul.)

Q. Did any of the men tell you after they left the boat that they were still having union meetings?

A. I don't remember.

Q. How many meetings were held during the relief trip you were on as second mate after that?

A. I don't remember. In fact, I don't know.

Q. Do you know that any meeting was held?

A. No, sir.

Mr. Martin: That is all. Thank you.

Trial Examiner Persons: Anything further?

Q. Mr. Zihrul, you made a trip as second mate?

A. Yes, sir.

Q. Navigating officer? [2164]

A. Yes, sir.

Q. What was the degree of error permitted to a good quartermaster in steering a boat?

A. It all depends on the weather conditions. In smooth water a good quartermaster keeps a ship almost on the degree; a degree or two.

Q. That is what you expect?

A. I expect him, in good weather, to keep the ship on the course, within a degree or two. Rough weather, it is different.

Q. That means at all times?

A. At all times, yes, sir.

Trial Examiner Persons: Anything further?

Mr. Martin: That is all.

Mr. Pipkin: No questions.

Trial Examiner Persons: You will be excused, Mr. Zihrul.

Before we call the next witness, may we have an understanding that the noon recess will be at 12:30 to 2:00. Will that be satisfactory?

Mr. Martin: Yes, sir.

Mr. Williams: That is all right with us, Mr. Examiner.

C. B. JOHANNESSEN

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows: [2165]

Direct Examination

Q. (By Mr. Pipkin) Give your name to the reporter.

A. C. B. Johannesen.

Q. Mr. Johannesen, how long have you been going to sea? A. About 35 years.

Q. Have you been ordinary seaman?

A. Yes, sir.

Q. Able-bodied seaman? A. Yes, sir.

Q. Served as quartermaster? A. Yes, sir.

Q. What is your present work?

A. Chief mate on the SS "Washington".

Q. Do you plan to go back on the "Washington" when you get through here? A. Yes, sir.

Q. You got off the "Washington" for the purpose of staying at Port Arthur for this hearing?

A. Yes, sir.

Q. On the "Washington" were you chief mate

(Testimony of C. B. Johannesen.)

during June and July of this year?

A. Yes, sir.

Q. Do you recall a seaman by the name of Buckless, a quartermaster? A. Yes, sir. [2166]

Q. Do you recall two A. B.'s by the name of Rosen and Zinkiewicz? A. Yes, sir.

Q. As chief mate, what are your duties on the ship?

A. To be responsible for the upkeep of the vessel, and to see that the vessel is properly navigated while on watch.

Q. By upkeep of the ship, does that mean you have some men under you? A. Yes.

Q. What is that group of men called?

A. Boatswain and sailors, ordinaries and A. B.'s.

Q. Call them the deck crew?

A. Deck crew, yes.

Q. Now who is directly under you in connection with these men? A. The boatswain.

Q. What does he do?

A. The boatswain, he directs the men to work, as directed from me.

Q. Can he do whatever he wants to do, or does he act solely under your orders?

A. He acts solely under my orders.

Q. Responsible to you? A. Yes, sir.

Q. Reports to you in the regular course of duty? [2167] A. Absolutely.

(Testimony of C. B. Johannesen.)

Q. I wish you would tell the Examiner what type of work Mr. Rosen did? What was he supposed to do?

A. He was able seaman.

Q. Do you recall the time these three men I mentioned came on board?

A. Yes.

Q. Did they come on together?

A. Well, one after the other, say about fifteen minutes apart, or something like that.

Q. Then begin with the coming on board of those three men, and relate what you know about Zinkiewicz and Rosen, please. Take Mr. Rosen first.

A. When he came on board he stayed around amidships there, and all three of them gathered around amidships by the pump room, and stayed there and talked for a while; and finally they went aft. They talked to one of the quartermasters who was on watch when they came on board, and they finally went aft. I don't know what they were talking about. I reckon it was to find out where the crew's quarters were. That is what it should be.

Q. Go ahead and relate what Rosen's duties were, and how he discharged them, and direct your remarks to the Examiner.

A. What his duties were?

Q. What his duties were, and how he did his work. [2168]

A. Well when we first left Port Arthur, at sea we put away all the gear of course, and he was competent in that, and did his work well. About

(Testimony of C. B. Johannesen.)

two or three days out he commenced slacking up, slacking up. When we got on to Florida I had a little job underneath a shelter, to keep him out of the sun, working under there, and he made a little job last a little too long to suit me. I told him about it, that he ought to have been through with this a long time ago, and to get on something else. So he said he would.

Q. Did he?

A. Not that morning. He was lagging in his work all along. When we got up around Cape Hatteras I put him to work on the mast, main mast, which is black, and buff, the lower part of it, say about 20 feet high buff, to paint that. He started in at 8:00 o'clock, and one of the ordinaries was there helping him, Burns. Burns was his name. Well, Burns finished up his side of the mast, where the ladder is, absolutely the worst part of the painting, before 12:00 o'clock; and Rosen, in the boatswain's chair, on the other side of the mast, had about 17 feet to go at 12:00 o'clock. That is four hours work, and an ordinary man should have done that in about two hours.

Q. Was this on the first or second trip you made?

A. This was the first trip.

Q. Do you recall any other way in which he was lacking in his work? [2169]

A. He was lacking all around. I told him about it several times, and asked him if he would not

(Testimony of C. B. Johannesen.)

please help along and do a little work. Munsell and the boatswain and I had to do all the work, and the boatswain complained to me about it.

Q. Did the boatswain in making his report to you report Rosen lagging? A. Yes, sir.

Q. Did it put any more work on anybody else?

A. Yes.

Trial Examiner Persons: May we know who Munsell is?

A. Munsell is an A. B. He is still on the ship.

Q. Was he on watch with Rosen?

A. No. He was then doing day work.

Q. He was a day man? A. Yes, sir.

Q. (By Mr. Pipkin) How long did that attitude and work of his go on, Mr. Johannesen?

A. Well he slackened up more and more all the time. He was slackening up and dragging back for some reason or other. They have 20 minutes coffee time and smoking time. I don't know whether he smoked or not, but he had from 10:00 to 10:20 for coffee time, we call it, on the ship.

Q. And when that 20 minutes was up——

A. Then they turned to again; and besides that he would have his business to go forth and back, and forth and back. [2170]

Q. You mean during the time they were supposed to be working?

A. Yes, sir, during the time he was supposed to be working.

Q. What did you finally do about it?

(Testimony of C. B. Johannesen.)

A. I told him several times that if he didn't do better we would have to get somebody else; and he just laughed at me, and never paid any attention to me.

Q. Did you report it to the master?

A. Yes, sir.

Q. Did the master in your presence ever watch him work?

A. Yes, he watched him.

Q. Well did you decide to keep him or fire him, or what?

A. Well the captain said to me, after I told him I guessed we had better get rid of him and Zinkiewicz both, because they wouldn't do anything, he said: "We will try them another trip. Maybe they will do better next trip." And I said: "All right. It is up to you."

Q. Did you give him a chance?

A. I gave him another chance.

Q. Did he improve?

A. No, none at all.

Q. What was his work like the second trip?

A. He was getting worse all the time; absolutely would do nothing; put him to a job, and he would look around, and wouldn't paint. [2171]

Q. Would he go through the motion?

A. He would go through the motion. He would sit right there in one place. He wouldn't even stand up; sit down.

Q. What sort of work did Zinkiewicz do? How did he do his work?

(Testimony of C. B. Johannesen.)

A. The same way. Both of them lagged around and wouldn't do anything.

Q. Was he a good painter?

A. If he was he didn't prove it aboard that ship.

Q. Do you recall any specific instance when he was painting?

A. I had him painting on the shelter deck overhead, and I watched him, stood there and watched him. He didn't see me, but I saw him. I was hid behind the pump house. And he was hanging up on a steam pipe. Of course there was no steam in the pipe. At sea we don't keep any steam on that steam pipe. He was hanging up on the steam pipe with one arm, and painting with the other; and he stayed in one spot there for two solid hours.

Q. Where was Rosen while that was going on?

A. Rosen was below. That was afternoon, 12:00 to 4:00. Rosen was on 8:00 to 12:00 watch.

Q. Did you report Zinkiewicz's failure to work to the captain? A. Yes.

Q. Did the captain have occasion to notice Zinkiewicz lagging? [2172]

A. Yes. After I reported it he started staying around. He could see that they wouldn't do anything.

Q. Did the boatswain complain to you about Zinkiewicz? A. Yes, sir.

Q. What did you decide to do about him?

A. Well we were going to get somebody else in

(Testimony of C. B. Johannesen.)

their place that would do better, and we decided we would give them another trial; try them one more trip, and if they improved any, all right.

Q. Did Zinkiewicz improve any on the second trip?

A. Never. Neither one of them improved.

Q. When did you and the master decide to let them go?

A. On the way back the second trip.

Q. From where? A. From Claymont.

Q. After you left Claymont on the way back?

A. From Claymont. I don't exactly remember whether it was the day before we got into New Orleans or not. We went to New Orleans that trip, or Amesville, Louisiana.

Q. Was it before you got to Amesville?

A. No, it was after we got to Amesville, I think. I don't remember that exactly.

Q. You decided to let them go when you got back to the port of discharge?

A. Yes, sir. [2173]

Q. Did you have occasion to observe Mr. Buckless?

A. No, only in port, when he was on the afternoon watch.

Q. Do you recall when you got to Claymont, Delaware? A. Yes, sir.

Q. Your watch was from 8:00 to 12:00?

A. Mine?

Q. Yes.

(Testimony of C. B. Johannesen.)

A. No, I had daytime in port.

Q. Do you know anything about Mr. Buckless' conduct in the Port of Claymont, Delaware?

A. Yes. We came in there Sunday morning, July 3, and docked around about 3:00 o'clock in the morning. And during the afternoon watch Sunday we discharged cargo. The ship was getting up, not only from discharging cargo, but also from the incoming tide, and I told him to go up there and slack away on the lines. And of course thinking that the man would do his duty and look out for it without being told, I looked around again at the lines after a while, and the lines were tighter than a fiddle string. And I went up there myself and turned them loose, and I asked him: "What the devil is the matter with you? Can't you attend to your work around here?" So he said he was going to do it. I said: "You were going to do it, but you didn't do it." I smelled liquor on him then. I don't know where he got the bottle from. I guess he had been ashore in the morning. So I said: [2174] "All right, you go ahead and attend to these lines, and watch this hose, and turn these valves according to where the pumpman tells you to." But he never paid any mind. He just laid around and laid around. [2175]

Q. Did you see him that night?

A. Yes, that night he came on board. I took the third mate's watch for him. He wanted to go up and see some people.

(Testimony of C. B. Johannesen.)

Q. Who took the third mate's watch?

A. I did.

Q. What time was that?

A. That was from 4:00 o'clock that afternoon to 12:00 o'clock that night, of July 4.

Q. An eight hour watch?

A. Yes. He was on board in the evening, but he had to go up there and see some kin people that were sick. So I said: "All right, go ahead. I will stand your watch." And a quarter to 12:00 Buckless came on board, and in place of going back there and changing his clothes and coming on back, he went and turned in.

Q. What time did you go off duty?

A. The second mate came to relieve me about five minutes to 12:00, something like that.

Q. Did you see him coming aboard?

A. Yes, sir, I saw him coming aboard. He was staggering all over the walk down there.

Q. You mean Buckless? A. Buckless, yes.

Q. Did he seem to have any difficulty getting aboard?

A. The ship was half way unloaded, and the gangway was a [2176] little steep, and he had about all he could do to get on board.

Q. Did you talk to him that night?

A. No.

Q. Did you talk to him the next morning?

A. No, sir.

Q. Did you talk to him when you sailed?

(Testimony of C. B. Johannesen.)

A. No. I saw him coming out there. I never talked to him. His duty is aft with the second mate.

Q. Did you ever see him at any other time on these two voyages when he had been drinking?

A. Yes, sir, in Bayonne, and New Orleans, or Amesville rather.

Q. Did he miss any watches other than the one at Claymont?

A. No, he didn't miss any watches, but Sunday he was not doing anything but lying around. He might as well not have been there, because he was no help to me.

Q. This was Sunday when?

A. In Claymont.

Q. In Claymont? A. Yes.

Q. Do you know anything about his steering ability?

A. No, I couldn't say anything about his steering ability. Of course, he was not on my watch at sea.

Q. Mr. Johannesen, relate how, when and where these men were [2177] given their money and discharges when you got back to Port Arthur.

A. It was July 14, I think, we arrived here and paid off, at the end of the second voyage. They were paid up to July 13 on the payroll, and the captain gave me their discharges for these three, Zinkiewicz and Rosen and Buckless, and one day's pay, with the voucher. There was also a wiper that was supposed to be paid off at the same time, and I

(Testimony of C. B. Johannesen.)

got his money and voucher and discharge; to pay these four men off after they had done their day's work, eight hours.

Q. Well, did you pay them off?

A. When they had done their eight hours I paid them off. No, excuse me, I made a mistake there. Buckless kept on pestering me the whole afternoon on his watch, 12:00 to 4:00, if he was fired. I said: "You want to put in a day, don't you."

He said: "Well, I don't care about the day. I want to know if I am fired."

Well, the voucher was made out, and a day's pay, and so I wanted to keep him there until 4:00 o'clock, until his time was up. But he pestered me and pestered me if he was fired.

And I said: "I will let you know in time."

Eventually I got sick and tired of him, and I said, at 3:00 o'clock: "Come on. I will give you your money. You want to go off so bad you can have it right now. I can get [2178] along without you."

Q. Had Zinkiewicz done gone?

A. Zinkiewicz had done gone. He had put in his day.

Q. Had Rosen gone?

A. No, Rosen was working until 4:00 o'clock.

Q. Did he work until 4:00?

A. He was to work on until 4:00.

(Testimony of C. B. Johannesen.)

Q. Did these men say anything to you when they left?

A. No. Well, Rosen asked me why he was fired. So I said: "You have had plenty of warning why you were fired."

Q. Did Buckless make arrangements with you for somebody else to stand his watch at Claymont, Delaware?

A. No, sir.

Q. Did he ask your permission?

A. No.

Q. Whose responsibility is it to set those watches?

A. Mine.

Q. Yours?

A. Yes, sir.

Q. If there had been any changes made in them what mate should authorize it?

A. The chief mate.

Q. Did you authorize this change?

A. No.

Q. Were you requested, any request made of you, to permit [2179] it?

A. No, there was no request made. He never asked me if he could stay off.

Mr. Pipkin: Will you indulge us just a minute, Mr. Examiner?

Trial Examiner Persons: Yes, surely, Mr. Pipkin.

Q. (By Mr. Pipkin) Do you recall the occasion when Mr. Rosen asked the captain to make certain repairs to screens, buckets and so forth?

A. Yes. The captain told me to see that it was fixed. That is all I know.

Q. What voyage was that?

(Testimony of C. B. Johannesen.)

A. The first voyage.

Q. First voyage? A. Yes, sir.

Q. And after that you made a subsequent voyage? A. Yes, sir.

Q. Mr. Rosen and Mr. Buckless were on that second voyage? A. Yes, sir.

Q. Was there any difference in your treatment of union and non-union men?

A. None whatsoever.

Q. Did it make any difference to you whether a man was union or not?

A. No. So long as the man performed his duty, it was all [2180] right with me.

Q. Have you ever discharged or recommended a man to be discharged because he was a union man?

A. No, sir.

Q. A man coming aboard ship, did you ever ask him if he was a union man or not? A. No.

Q. Have you ever recommended a man be fired because he was a delegate? A. No. [2181]

Q. Have you ever fired a man because he was a delegate? A. No, sir.

Q. Was a man on the "Washington" ever fired because he was a delegate, as far as you know?

A. Not as long as I have been there.

Q. Did Rosen perform any special jobs for you while he was on the ship?

A. No, only the regular routine.

Q. Was his work——

(Testimony of C. B. Johannesen.)

A. Painting, scaling, washing paint, and so forth.

Q. Was his work the same as any other A. B.'s should have been? A. Yes.

Q. What is the custom on the ship, on the "Washington", with reference to men missing watches, what arrangement did they make?

A. They come and ask me if they can stay off watch if another man will take their place.

Q. Is that the general understanding?

A. That is the general rule on all ships, not only on the "Washington".

Q. Were working rules posted on the "Washington"? A. Yes, sir.

Q. During this time, June and July, 1938?

A. Yes, sir.

Mr. Pipkin: That is all. [2182]

Cross Examination

Q. (By Mr. Martin) Mr. Johannesen, how did you get the men to replace these three who were fired on the 14th of July? A. Sir?

Q. How did you get the men to replace these three who were fired on the 14th of July?

A. How I got them?

Q. Yes.

A. As a general rule, I send word to Mr. Meyers, the man who hires the men for the company ships, and he goes down to the wharf, or goes—I don't

(Testimony of C. B. Johannesen.)

know where he goes—and gets the men, and they report on the ship to me, or go aft.

Q. Now, in this particular case, when did you do that?

A. When we arrived here in Port Arthur.

Q. And then you fired those three men that day here, that was the 14th? A. On the 14th.

Q. Now, when did you get these other men?

A. I sent for them on the same day, to turn to on the 15th.

Q. Did you go down and see Mr. Meyers?

A. Mr. Meyers came on the ship.

Q. I see. On the very day you said you wanted three men? A. Three men.

Q. Two A. B.'s and a quartermaster?

A. Yes, sir. [2183]

Q. What time was it that day that Mr. Meyers came on?

A. Well, now, I couldn't tell you; on the arrival, whenever we arrived, he came on board that minute, as soon as the gangway was out he came aboard.

Q. And then when did the new men come down to see you? When did you first see any of them?

A. They were there the next morning. That is all I know.

Q. When did the boat sail?

A. I believe it was on the 16th.

Q. That the boat sailed? A. Yes, sir.

Q. And the men reported to you on the morning of the 15th? A. On the 15th, yes, sir.

(Testimony of C. B. Johannesen.)

Q. And they worked on that day, did they?

A. Yes, sir.

Q. Did you accept the first three men Mr. Meyers sent down to you that day? A. Yes, sir.

Q. They were satisfactory to you?

A. They were satisfactory as far as I knew at that time.

Q. Well, that is what I am interested in.

A. It is not customary when the company sends me a man for me to send them back again. I must give that man a trial.

Q. I see. You could have rejected those men, or any one of them, if you wanted to, couldn't you?

[2184]

A. Absolutely. But it is not the company's rules to do that. You must give a man a chance to find out his ability, and to obey the company's rules.

Q. Well, but you have the authority to refuse a man Mr. Meyers sends you? A. Absolutely.

Q. You don't have to take him?

A. If I know a man is incompetent, I don't have to take him.

Q. These men worked for you all one day on land? A. Yes.

Q. Before the boat left? A. Yes, sir.

Q. And you did not decide that you should refuse to let any of them go on the boat, did you?

A. No.

Q. And you did let them go when the boat sailed on the 16th, that is correct? A. Correct.

(Testimony of C. B. Johannesen.)

Q. Now, when were the shipping articles for the new trip signed? A. On the 15th.

Q. The 15th? A. Of July, yes, sir.

Q. What time of day?

A. I believe it was after dinner. [2185]

Q. That night?

A. No, after dinner, between 12:00 and 4:00 o'clock in the afternoon. I remember that it was afternoon.

Q. The day before the boat set sail?

A. Yes, sir.

Q. On the new trip? A. Yes, sir.

Q. That was some hours after these new men reported to you?

A. Yes, sir. Let me see. I believe I am tangled up there. Do you mind my looking at this here?

Trial Examiner Persons: Is it in your own handwriting? A. Yes, sir.

Q. Trial Examiner Persons: I take it there will be no objection. You made this out yourself?

A. Yes, sir. I copied it from the log. I want to be sure I am right on these dates.

Trial Examiner Persons: I think that is desirable.

Mr. Martin: I do also.

Q. If, from your notes, you wish to change any of the dates, I wish you would do so.

A. We arrived in Port Arthur at 8:08 a. m., July 14th.

(Testimony of C. B. Johannesen.)

Q. Yes, sir. A. And we sailed on the 16th.

Q. What time?

A. 5:45, I think. I haven't got that down. [2186]

Trial Examiner Persons: It was in the afternoon? A. Yes.

Q. Not in the morning?

A. No. So we signed articles on the 15th, in the afternoon.

Q. (By Mr. Martin) You are sure it was not the afternoon of the 16th?

A. No. The 16th we sailed, on the morning of the 16th, for I came down and had to come on board. I live in Beaumont, and I had to come aboard that night. I stayed aboard the ship that night to be there the first thing in the morning.

Q. Now, by virtue of what authority did you tell Mr. Meyers when the boat docked at 8:00 a. m., on July 14th, that you wanted three new men for the next trip? A. I didn't understand you.

Mr. Martin: Well, read the question.

(Question read.)

A. What authority. I don't get that.

Q. (By Trial Examiner Persons) Did the captain give you orders to get three men from Mr. Meyers?

A. No, he already told me to get three men. I knew there must be three men to replace the men going off the ship. Everybody knows that.

Q. So the captain didn't have to tell you to get three men? A. No.

(Testimony of C. B. Johannesen.)

Q. You just did it on your own accord?

A. That is my duty to see that the full complement of the crew is there for [2187] sailing. That is the chief mate's duty. The captain has got something to do with it all right. He is the big boss, of course. We know that.

Q. Yes.

A. But he leaves that to the mate.

Trial Examiner Persons: I gather that the captain's duty is to see that the chief mate is competent?

A. Competent enough to attend to his own work.

Q. That is what happened in this case?

A. Yes.

Q. (By Mr. Martin) He did not specifically tell you to get three new men?

A. No. It is not customary.

Q. He just assumed you would get them.

A. He knows that I will get them. He doesn't assume it. He knows it. If I didn't know that much, I wouldn't be there.

Q. Now, the next morning when these men reported to you, did you ask them to report to the captain before they went to work?

A. No. They reported to the captain to sign articles on the 15th.

Q. But they worked all morning of the 14th?

A. Oh no. The 14th we arrived.

Q. I am sorry. They worked during the morning of the 15th before they talked to the captain?

(Testimony of C. B. Johannesen.)

A. Yes, they turned to at 8:00 o'clock. [2188]

Q. Under your orders and direction?

A. From me to the boatswain, and they worked under the boatswain's directions, whatever he directed them to do, under my supervision.

Q. Yes. How did you know you were going to make the next trip?

A. I knew that if I didn't, the master would have told me I couldn't make the next trip.

Q. And he had not told you that?

A. He had not told me.

Q. Is your name at the top of the shipping articles for each trip you made? A. No. 1.

Q. Yours is the top name? A. Yes, sir.

Q. Now, isn't it true, Mr. Mate, that Zinkiewicz, Rosen and Buckless would have had to work until 5:00 p. m., on the 14th if you had asked them to?

A. No. We would have had to pay overtime if they worked until 5:00 p. m.

Q. But under their contract with you, or with the captain, you could have made them stay until 5:00?

A. No, sir, not that day. At 4:00 o'clock their eight hours was up.

Q. Mr. Mate, I show you the first page of what has been [2189] received in evidence as Respondent's Exhibit 11, and refer you to Item No. 8 of the contract between the captain and the crew. Does that not say that the crew is to work on day of

(Testimony of C. B. Johannesen.)

arrival in final port of discharge until 5:00 o'clock p. m., if required?

A. Yes, but you can't work them over eight hours. The men on the 12:00 to 4:00 watch, they had four hours in the morning, and from 12:00 to 4:00 in the afternoon, and that is eight hours, and that constitutes a days work.

Q. But if you had demanded that these men stay until 5:00 o'clock, they would have had to stay?

A. Not those men, no. They had done their eight hours work.

Q. But I am not talking about whether you would have to pay them overtime. The point is, if you had wanted them to stay, and pay them overtime, they would have had to stay?

A. Under their agreement, they are supposed to work eight hours, and the eight hours is up. They are finished.

Q. Irrespective of pay, forget that one minute, if you or the captain had wanted them to work until 5:00 p. m., that day, under their contract or agreement with the captain at the beginning of the trip, you could have required them to work until 5:00, couldn't you?

A. No, sir, not after the man has done his eight hours work. When his eight hours is up he is finished for that day. You can't make him work over eight hours. [2190]

Mr. Williams: Mr. Examiner, we object to this line of questioning. The contract speaks for itself.

(Testimony of C. B. Johannesen.)

If it is susceptible of some other construction, well and good. I think that is the Board's province to construe the contract.

Trial Examiner Persons: I will agree that the witness has made clear his understanding of that provision.

Mr. Williams: It is pure speculation of what he might or could have done.

Q. (By Mr. Martin) Were the three men who replaced Rosen, Zinkiewycz and Buckless, union men?

A. I couldn't tell you. I heard they were union men, yes, but I don't know. They never showed me any credentials.

Q. Who told you they were union men?

A. Well, they told me themselves that they were union men. They came up there to the captain, and they were delegates, and so forth and so on.

Trial Examiner Persons: I think there is a misunderstanding.

Q. (By Mr. Martin) The question is as to those three new men, after Zinkiewycz and Rosen and Buckless left.

A. I was told they were union men.

Trial Examiner Persons: Then who told you?

A. I don't know who it was who told me. That went all over the ship. The ship is supposed to be 100 per cent union men, [2191] according to statistics of the crew.

Q. Who told you that?

(Testimony of C. B. Johannesen.)

A. Well, the steward was one of them that told me. He is a union man. He lives up amidship there.

Q. Did anybody else tell you while Rosen, Zinkiewicz and Buckless were aboard that the crew was 100 per cent union?

A. And after they left the boat.

Q. Who told you that while they were aboard?

A. The steward was one of them. I don't recollect, I can't name anyone.

Q. Did you see notices from time to time that union meetings were to be held?

A. I never saw them being held no, but I have heard of them being held, yes, sir.

Q. (By Trial Examiner Persons) Did you see the notices?

A. Yes, I saw one there that said, I think, an open air meeting, 6:00 p. m.

Q. Anything about a union? A. No.

Q. Union meeting?

A. They had it hung out by the galley door one day, and I went back there and saw it, open air meeting, 6:00 p. m.

Q. Did it say who was holding the meeting?

A. No, it didn't say that.

Q. It might have been just a crew meeting?

[2192]

A. Yes, sure.

Q. Didn't say union meeting?

A. No, just said open air meeting at 6:00 p. m.

Q. And, Mr. Mate, were you present at that dis-

(Testimony of C. B. Johannesen.)

cussion with the captain and the delegates when they were objecting to Buckless going over the side to paint?

A. I never knew that Buckless had any instructions to go over the side to paint.

Q. Then you were not present at that meeting with the captain?

A. There was nobody instructed to go over the side to paint.

Q. That was not the question. Read the question.

(Question read.)

A. No.

Q. What were you doing during the two solid hours that Zinkiewycz was lagging at the same spot?

A. I was watching him.

Q. For two solid hours?

A. For two solid hours, yes.

Q. You didn't have anything to do except to watch him?

A. I just stood there and watched, the same as I am watching you right now.

Q. You mean you were earnest? A. Yes, sir.

Q. And you were laying for him? [2193]

A. Yes, I was laying for him.

Q. And you got him?

A. You damn right, I got him.

Q. Yes, sir. A. Excuse me.

Q. That is all right.

A. And I got him told, too, and plenty.

(Testimony of C. B. Johannesen.)

Q. Now, what time of day was that?

A. Well, let's see. I can give it to you exactly on the minute. Let's see: From a little after 1:00 to 3:00 o'clock, when he went back for coffee; from 1:00 in the afternoon until 3:00 o'clock when they went back to coffee, he stayed there in that same spot. He hung there with his arm over a steam pipe.

Q. Where were you standing?

A. Standing by the pump house. He was under shelter deck and he was painting up underneath the roof there, or supposed to be painting, and he had a bench underneath, and he had a pipe there, and it must have been a very comfortable place there, because he never shifted from there for two solid hours.

Q. Were you standing in the sun?

A. No, sir, the shade. [2194]

Q. You were in the shade? A. Yes, sir.

Q. A hot afternoon, was it?

A. The coolest place on the ship. The breeze comes right through the shelter deck there. It is open under there.

Q. Since he was painting, I assume it was not raining, but a clear, bright day?

A. Fine weather.

Q. Now, why were you laying for Zinkiewycz?

A. To see if I couldn't make him do better.

Q. During this entire period of two hours, did you go up to him?

(Testimony of C. B. Johannesen.)

A. No. I just watched to see how far he would go in those two hours.

Q. Then, how did your efforts at that time contribute to his doing any better if you didn't speak to him about it?

A. I spoke to him. When three o'clock came I spoke to him, when he went back for coffee.

Q. But despite the fact that he was loafing for two hours, he was fired for incompetency.

A. Neglect.

Q. On the crew's list it said incompetency.

A. Incompetency and neglect both. You can use both words for that.

Q. Wasn't there plenty of space on the crew's list that [2195] you sent to New York, to put that in?

A. I never put anything on the crews list. I have nothing to do with that.

Q. Did you fire Zinkiewicz?

A. I recommended him to be fired. The Master fired him, of course, and I paid him off.

Q. Do you feel it any part of your obligation to see that the reason or reasons why you fire a man are directly reflected in the crews list that is sent to New York?

A. I suppose that is the company's rules. I don't know.

Mr. Pipkin: I think he didn't understand the question. Will you read it, Mr. Etter?

(Question read.)

(Testimony of C. B. Johannesen.)

A. No.

Q. (By Mr. Martin) It is not a part of your duty? A. No.

Q. Would you say then, that as a matter of fact, the reasons given in the crews list for firing any specific individual do not always reflect the reason, or all of the reasons, why he was fired?

A. I presume not.

Mr. Pipkin: Did you understand that question?

Mr. Martin: Yes. I could tell by his inflection he did.

Mr. Williams: I don't know that I understand it myself.

Trial Examiner Persons: Would you like it read? [2196]

Mr. Williams: Yes, sir.

Trial Examiner Persons: Read the question, Mr. Etter.

(Question read.)

Mr. Williams: It really called for a conclusion, anyhow.

Trial Examiner Persons: Will you read the question again? And read it a little more slowly, Mr. Etter. You are a little fast.

Mr. Williams: Do you understand that question?

A. I didn't get all the details of it, no. I don't understand it.

Mr. Pipkin: Will you ask it, Mr. Examiner?

Q. (By Trial Examiner Persons) The question

(Testimony of C. B. Johannesen.)

is, do the notations on the crew list which record discharges cover the reason and all the reason why a man is discharged?

A. I don't know about that.

Q. That is the Captain's job?

A. That is the Captain's job.

Q. Do you see those crew lists with discharges noted? A. No, sir.

Q. Not in line of duty at least? A. No, sir.

Trial Examiner Persons: Are you satisfied?

Mr. Williams: We are satisfied. I thought he didn't understand it.

Mr. Pipkin: Thank you, sir. [2197]

Q. (By Mr. Martin) How long did the first trip, first voyage, last when Rosen was on?

A. The complete voyage from Port Arthur and back again?

Q. Yes.

A. I will tell you right here. From June third to June twentieth.

Q. Would that be seventeen days?

A. To Amesville, June 20. On the twenty-second in Port Arthur. We went to Amesville and unloaded, to come to Port Arthur the twenty-second.

Q. Then, is it correct that you had sixteen days during the first voyage to observe Rosen's work after he first began to slacken, two or three days out of Port Arthur, the first trip? A. Yes, sir.

Q. During those sixteen days did you have am-

(Testimony of C. B. Johannesen.)

ple opportunity to observe whether or not he was improving, as you continually cautioned him?

A. He was not improving.

Q. Did you have an opportunity to observe him?

A. Yes, sir.

Q. And is it your testimony that he did not improve, despite your continued warnings during those sixteen days?

A. Yes, sir.

Trial Examiner Persons: You will have to speak. Mr. [2198] Etter can't see your nod.

Q. (By Mr. Martin) How many times did you warn him concerning anything he did during those sixteen days?

A. That is pretty hard to tell. I couldn't remember that.

Q. Would you say a number of times?

A. A number of times would be all right.

Q. Half a dozen?

A. Or a dozen.

Q. During that period of sixteen days did you see anything that led you to believe that he intended to improve?

A. His intention must not have been to improve.

Q. His intention must not have been to improve?

A. Must not have been to improve himself.

Q. And you noticed that, did you?

A. Yes, sir.

Q. During those sixteen days?

A. Yes, sir.

Q. Then, why did you give him another chance?

A. I consulted with the Master, and the Master

(Testimony of C. B. Johannesen.)

told me: "Try him one more trip, and if he don't improve, let him go when we get back again, and we won't sign him on again."

Q. Did you tell the Master you didn't think he would improve? Did you tell the Master that?

A. Yes. I told him I didn't think there was any improving in him. He was too lazy, in other words. [2199]

Q. Does the Master usually follow your recommendations with respect to the deck crew?

A. He uses his own judgment, of course. He wanted to find out for himself that he was correct in firing anybody. After I started to complain to the Master, he started watching him himself.

Q. Then, the Master didn't start watching Rosen until the second voyage, is that correct?

A. I believe that is when he started watching him. He told me one day: "There is no improvement in these fellows. They will never do any good on this ship. The best thing we can do is to get rid of them and not sign them on again."

Q. When did he say that?

A. On the second voyage.

Q. Did the Captain ever give you any indication during the first voyage that he thought Rosen was lazy?

A. I don't remember.

Q. No?

A. I don't remember.

(Testimony of C. B. Johannesen.)

Q. Well, now, at the end of the first voyage, you actually went so far as to tell Zinkiewycz that he was fired? A. Yes.

Q. Did you consult the Captain about that?

A. Yes, sir.

Mr. Williams: Do you mean the first voyage?
[2200]

Trial Examiner Persons: Do you mean the first voyage? A. First voyage, yes, sir.

Q. (By Mr. Martin) Did you talk to the Captain about that? A. Yes, sir.

Q. What did the Captain say?

A. I really did fire him.

Q. Did you talk with the Captain?

A. Yes, I'd talked to the Captain before.

Q. Did the Captain tell you why it would be all right with him to fire Zinkiewycz, and why he didn't want you to fire Rosen?

A. Well, Rosen was doing a little better than Zinkiewycz. He didn't stay in one place for two hours and paint. He painted fifty feet in four hours. He did a little better than the other fellow. That is not a whole lot better though.

Q. What was Rosen doing? Was he painting a huge sign to hang out at Amesville?

A. I couldn't tell you.

Q. Did you see that sign?

A. Yes, I saw it.

Q. You did see it?

A. In fact, I tore it down.

(Testimony of C. B. Johannesen.)

Q. Where?

A. Under the instructions of Mr. Hand I tore it down; tore it down and threw it overboard; and they picked it up again [2201] the second time.

Q. Who did that?

A. I didn't see who it was. But I call that child's play. A little child would do that, that goes to school. I don't call that man's play.

Q. Did you talk to the Captain about that sign?

A. No, I didn't talk to the Captain about it. In fact, I didn't see it was up there. I have no business back there. They must have hung it up before we docked.

Q. Did the Captain ever make any reference to that sign to you?

A. No. Mr. Hand came there and told me to tear that sign down.

Q. Mr. Hand also told you to keep Zinkiewicz on another trip, didn't he?

A. Yes, sir. Mr. Zinkiewicz promised me that he would do lots better, that he would improve. In place of that, he improved the other way.

Q. Did Mr. Hand tell you to keep Zinkiewicz on the other trip the same time he told you to take the sign down?

A. No. That was the following trip, the last trip.

Q. When did you first see this big sign?

(Testimony of C. B. Johannesen.)

A. Well, I saw something hanging back there going out of New Orleans, going down the Mississippi River, but I never paid any attention to it.

[2202]

Q. That was coming back on the second trip, wasn't it?

A. On the second trip, yes. But I never paid any attention. I never paid any attention to it coming into Port Arthur even.

Q. Except to tear it down?

A. Except to tear it down. I was surprised when Mr. Hand said to tear that sign down. I didn't know what he was talking about.

Q. Was this on July fourteenth that he tore the sign down? A. Yes, sir.

Q. What time of day was it?

A. Well, we docked in the morning around eight o'clock. Mr. Hand came on board just after we docked. I will say nine o'clock he came aboard.

Q. And that is when he told you to tear it down?

A. Yes, sir.

Q. About nine o'clock? A. Yes, sir.

Trial Examiner Persons: Have you a stopping place?

Mr. Martin: May I have just a minute?

Trial Examiner Persons: During the interim you will not talk about the case unless it be with the company's attorneys?

A. I will not talk about it to anyone.

Trial Examiner Persons: That will be better.

(Testimony of C. B. Johannesen.)

Mr. Pipkin: To whom should he talk? [2203]

Trial Examiner Persons: To no one except the respondent's attorneys. It is just the regular instructions we give any witness during the noon interim, not to talk about the case except with the appropriate attorney.

Mr. Williams: Do I understand that the respondents are excluded?

Trial Examiner Persons: That is what I said, now, with the respondent's attorney.

Mr. Pipkin: I suggest, in view of that statement in the record, that we continue until we conclude with Mr. Johannesen.

Trial Examiner Persons: He is not cut off from you.

Mr. Pipkin: I don't want to talk to him.

(Discussion off the record.)

Mr. Pipkin: Let the record show that the respondent's attorney misunderstood the Examiner's instructions.

Trial Examiner Persons: Are you ready for adjournment?

Mr. Martin: Yes, I am ready.

Trial Examiner Persons: Adjournment at this time until 2 p. m.

(Thereupon, a recess was taken until 2 o'clock p. m.) [2204]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 2 o'clock p.m.)

(Testimony of C. B. Johannesen.)

Trial Examiner Persons: Will you be sure to note that Mr. Mullinax has an appearance. He is taking over when Mr. Mandell goes away.

Mr. Johannesen, will you resume the stand?

C. B. JOHANNESSEN

resumed the stand on behalf of the respondent and testified further as follows:

Trial Examiner Persons: Gentlemen, we will note that we have a new reporter; at least a relief reporter, Mr. Conklin, who takes over for Mr. Etter.

Proceed with your cross examination, Mr. Martin.

Cross Examination

(Continued)

Q. (By Mr. Martin) Mr. Johannesen, do you have a written contract with The Texas Company marine division? A. No, sir.

Q. Then the only working contract you ever have with the company is when you sign the shipping articles, is that correct?

A. The articles from voyage to voyage.

Q. Did you consider firing Buckless at any time during the first trip? A. Yes, sir. [2205]

Q. What gave rise to that consideration in your mind?

A. His neglect; hard-headedness when I give him an order to do something. He always gave a little snotty answer or something to that effect.

(Testimony of C. B. Johannesen.)

Q. How do you remember any instances in particular?

A. The same as I said before. On slacking away or taking up on lines when loading or discharging, opening up valves, whatever was necessary to be done around the deck when he was on duty, he would kind of linger around and would give a little answer that was unnecessary.

Q. Now why did you fire Buckless?

A. The captain fired him.

Q. The captain paid him off, you mean?

A. By recommendation of me and the second mate. The second mate complained to me about him being drunk and wouldn't stand his watch and he also complained to the captain.

Q. But you are the one who told him that he was fired, isn't that correct?

A. I told him that afternoon when I paid him off; give him the slip, the voucher, and the discharge, that he was no longer required.

Q. Now why did you fire him? A. Sir?

Q. Why did you fire him?

A. Well, I just told him that he was fired. I already had [2206] the voucher and his discharge and the money for that day's work. That wasn't on the regular payroll.

Q. But I want to know the reason why you fired him?

A. The reason? By instructions of the master. The master's instructions.

(Testimony of C. B. Johannesen.)

Q. Had you reported to the master at any time that Buckless gave you back smart answers?

A. Yes.

Q. You had? A. Several times, yes.

Q. Was that one of the reasons why you fired him?

A. That is one of the reasons, of course, that he was fired, and neglect of his duty.

Q. Neglect of duty and making smart answers?

A. Yes.

Q. And what other reasons?

A. Well, there was several others. His steering and his drunkenness.

Q. Now did you consider it a part of your duty to see that all the reasons why he was fired were put down on the crew's list that was sent to the New York offices of The Texas Company?

A. No, sir.

Q. So far as you know then there were other reasons why he was fired than those that were reflected in the crew's list [2207] that went to New York City?

A. I don't know what was on the crew list.

Q. You don't? A. No.

Mr. Martin: That is all I have at this time.

Trial Examiner Persons: Questions by the union?

Mr. Mullinax: No questions.

Trial Examiner Persons: Mr. Johannesen, would you mind explaining for the record—it may be clear, but it is not clear to me—something you said

(Testimony of C. B. Johannesen.)

about Mr. Zinkiewicz. Was he fired after the first voyage; that is, discharged?

A. Yes, he was fired, but he begged to come back again to make another trip; that he would do better, so the captain decided to let him make another trip.

Trial Examiner Persons: The captain told you before?

A. Yes.

Trial Examiner Persons: You and the captain discussed it?

A. Yes, sir.

Trial Examiner Persons: And the captain said to let him have another trial?

A. Give him another chance, yes.

Trial Examiner Persons: And after the second voyage he was discharged again?

A. Yes. He didn't improve any, so we had to let him go. [2208]

Trial Examiner Persons: But that is correct, that he was discharged twice, once after each voyage?

A. Yes, sir.

Trial Examiner Persons: You set the watches as first mate?

A. Absolutely, yes.

Trial Examiner Persons: In setting the watches is there any established custom as to who rates each watch?

A. No.

(Testimony of C. B. Johannesen.)

Trial Examiner Persons: Do you reckon the watches are of equal desirability or is there one that is counted the worse of the three?

A. Well, the 12:00 to 4:00 watch is really counted the worse watch.

Trial Examiner Persons: Because of those morning hours?

A. The morning hours, yes.

Trial Examiner Persons: Is there any objection to the 4:00 to 8:00 watch?

A. No.

Trial Examiner Persons: On the score that you split your working hours in two?

A. No. The 8:00 to 12:00 is really the best watch on the ship.

Trial Examiner Persons: That is the first mate's watch, I take it? [2209]

A. That is the third mate's watch.

Trial Examiner Persons: Which is your watch?

A. The 4:00 to 8:00. I go on at 4:00 in the morning and 4:00 in the evening.

Trial Examiner Persons: The rules say that the work of the ship other than navigation and so on is restricted from 6:00 to 6:00?

A. Yes, sir.

Trial Examiner Persons: So that the 4:00 to 8:00 watches catch their work in two doses?

A. Yes, sir, in the morning from 6:00 to 8:00 and from 5:00 to 6:00.

Trial Examiner Persons: From 4:00 to 6:00, you mean?

(Testimony of C. B. Johannesen.)

A. From 4:00 to 6:00 and then they get a half hour for supper.

Trial Examiner Persons: But if they are on painting or some other duty, disagreeable work, they have to change clothes a couple of times?

A. Yes, sir.

Trial Examiner Persons: Do they object to that?

A. No, sir.

Trial Examiner Persons: Do you ordinarily give the older men in service the watch that is rated best and most desirable?

A. If they ask for it, I try to let them have the best watch, [2210] what they call the third mate's watch or the mate's watch, but some of them would rather have the 12:00 to 4:00 watch for some reason or other.

I don't know why, but I have had them come to me and ask me to put them on the 12:00 to 4:00 watch; to let them have the 12:00 to 4:00 watch. We have one quartermaster on board that was on my watch for about four months and he asked me if he couldn't transfer to the 12:00 to 4:00 watch when there was an opening.

Trial Examiner Persons: Do you regularly do that; that is, consulting their wishes when you can, other things being equal?

A. Yes, sir, that is, try to be agreeable with them, of course.

(Testimony of C. B. Johannesen.)

Trial Examiner Persons: After a watch is set for a voyage, in case it becomes necessary to change; say a man drops out for sickness; and you look the list over and you say to so and so "I want you to take a certain A.B.'s place on the watch," can he refuse?

A. No. If he is on the 12:00 to 4:00 watch and I told him "You go on the 4:00 to 8:00 watch," well, he has got to do it. It is his duty to do it.

Trial Examiner Persons: He can't say "no"? He can't say: "No, I prefer the watch I am on"?

A. No. [2211]

Trial Examiner Persons: He can't say: "If I make that change I will loose a couple of hours' time"?

A. No. You don't lose no time, of course.

Trial Examiner Persons: Even if he would, he couldn't refuse it?

A. No, he couldn't refuse it.

Trial Examiner Persons: In the case of overtime, I have been reading the rules about overtime pay, and in case the men are directed or ordered to work overtime at the end of their regular watch, could they refuse?

A. No, I don't think they can. They get compensated for it and they are always glad to work overtime.

Trial Examiner Persons: I don't recollect—perhaps you do—anything in the working agreement, the articles, or the working rules that are posted

(Testimony of C. B. Johannesen.)

whether or not a man is required to work overtime.
Is there anything?

A. No.

Trial Examiner Persons: It just goes by custom and, I guess, the rules of the sea?

A. The company's rules that they have back there in the mess room say that after 6:00 p. m. and before 6:00 p. m. or on your watch below if you work overtime you will be paid for it.

Trial Examiner Persons: This work of cleaning tanks, it is disagreeable? [2212]

A. Yes, sir.

Trial Examiner Persons: Is it in any degree dangerous?

A. No. The tanks are steamed out and washed out before anybody goes down there and seen to it that they are absolutely gas free.

Trial Examiner Persons: No fumes?

A. No fumes.

Trial Examiner Persons: Or dangerous fumes?

A. No, they are absolutely gas free before anybody enters the tanks.

Trial Examiner Persons: But the extra pay, and the extra pay even though it isn't your watch, is recognition of the disagreeable character of the work?

A. Disagreeable; getting dirty and so on.

Trial Examiner Persons: Is it hard work; harder than normal?

(Testimony of C. B. Johannesen.)

A. No, it ain't very hard. All they have to do is go down there and sweep up that dirt down there and put it in buckets. Of course I will admit that they get pretty dirty at times, especially on a ship like we are in, carrying black oil.

Trial Examiner Persons: I was going to say, if you carry crude oil they would get pretty dirty.

A. Crude oil and fuel oil, you get pretty dirty.

Trial Examiner Persons: There would be a good deal of sludge in the tank, wouldn't there? [2213]

A. Yes.

Trial Examiner Persons: At the time that Zinkiewicz was fired at the end of the first voyage, did anybody at that time for any reason mention a union?

A. Not that I know of, no.

Trial Examiner Persons: At the time these three men, Zinkiewicz, Rosen and Buckless were discharged at the end of the second voyage, will you search your memory and see if you can think of any mention made by anybody about unions in any connection?

A. I can't recollect. I didn't pay attention. If they did, well, it is not to my knowledge.

Trial Examiner Persons: You have no such memory?

A. No. I am pretty sure no one mentioned it that I heard it. They might have said it elsewhere.

Trial Examiner Persons: No. I am only asking you about your own knowledge.

(Testimony of C. B. Johannesen.)

A. No, I am pretty sure no one said anything about a union.

Trial Examiner Persons: Either at the time they were discharged or at the time they were paid off or after they were paid off.

A. Not after either. There was no union mentioned to me.

Trial Examiner Persons: You recollect no mention about the union then?

A. No, no. I am pretty sure there was none. At least, I [2214] am sure there was none. I never can recollect it at all and things like that don't slip my memory easy.

Trial Examiner Persons: Have you anything whatever, any incident, in mind in connection with union activities which seemed to you should be criticized from the standpoint of good ship discipline or getting the ship's work done?

A. I don't understand quite what you mean.

Trial Examiner Persons: Let's read it, Mr. Reporter. I am not sure I phrased it well.

(The question was read.)

A. No.

Trial Examiner Persons: Anything further, Mr. Pipkin?

Redirect Examination

Q. (By Mr. Williams) The occasion on which you observed Zinkiewycz for two hours, will you tell the Examiner why you found it necessary to make that observation? Why you thought it was

(Testimony of C. B. Johannesen.)

necessary to make that observation? In other words, had there been anything in his previous conduct or previous method of doing his work or not doing his work that induced you to keep your eyes on him there for that about two hours? A. Yes, sure.

Q. Just tell the Examiner now.

A. He had been lagging on his work all along and so I thought I would go down there and watch him. I had a report [2215] from the boatswain that the man was lagging on his work; couldn't get nothing out of him.

Q. I am going to ask you this question: Did you have any animosity or hard feeling toward Zinkiewicz as a man?

A. No, sir, none whatsoever.

Q. You say that he was discharged at the end of his first voyage or that you thought you wanted to discharge him. You hadn't actually given him his discharge papers, had you, at the end of the first voyage? A. No papers, no, sir.

Q. You hadn't given him any papers?

A. No, sir.

Q. But he was told by you or the master that his services were no longer needed?

A. Yes, sir.

Q. But he asked to make another trip?

A. He asked to make another trip and he was given another chance. He came into my room and he said: "I will try to do better, Mr. Mate, if I can make another trip."

(Testimony of C. B. Johannesen.)

All right. The day in port he worked pretty good. The day we got outside, it was the same old song again.

Q. During that second voyage what was your method of treatment or how did you treat him as a seaman?

A. The same as the rest.

Q. I don't think you have yet testified and I don't think [2216] it is in the record as to when, referring to the voyages, either first or second, you kept him under observation for two hours. Is that the first or the second voyage?

A. The first voyage.

Q. It was the first voyage?

A. Yes, sir.

Q. And you reprimanded him at that time?

A. Yes, sir.

Q. And then took him back on the second trip?

A. Yes, sir.

Q. You used the expression that you were laying for him. What did you mean by that? Tell the Examiner what you meant by laying for him?

A. Watching him.

Q. Just like you would watch anybody else?

A. Yes, sure, just like you watch any one. Zinkiewicz wasn't doing his work. I had complaints from the boatswain about him. So I made up my mind "I am going down there and watch him and give him a thorough talking to."

Q. All right. Now then what?

A. At 3:00 o'clock when he went back for his coffee I talked to him, man to man. I said: "We

(Testimony of C. B. Johannesen.)

are all on board here to do our work and it has got to be done. If you don't do your work, the next fellow, your fellowman, has got to do your work for you. Now why don't you show yourself like a [2217] man and go to work and do your part of it?"

So he said: "Mr. Mate, I will."

That is all there was to that. That was forgotten right away.

Q. You also used the expression that you laid for him to get him and did get him. What did you mean by getting him? A. Getting him told.

Q. You meant detect him? A. Yes, sir.

Q. Detect him in his lagging? A. Yes, sir.

Mr. Martin: Just a minute, Mr. Examiner.

Mr. Williams: Strike it from the record. I will withdraw it.

Trial Examiner Persons: If you have an objection to make, Mr. Martin, if you will show that you are objecting it will look better in the record.

Mr. Martin: Yes, sir.

Trial Examiner Persons: The objection will be overruled, if any. Now read back what you have, Mr. Reporter.

(The last three questions and answers were read.)

Trial Examiner Persons: Now, Mr. Martin's objection, if any, was overruled.

Q. (By Mr. Williams) Just to be fair to everybody I will ask the witness this question: Tell the Examiner what you [2218] meant by the expression getting him. Tell in your own language now what you meant by that?

(Testimony of C. B. Johannesen.)

A. That means to get him told; what I think about him, the same as I explained there. Of course I might have used a little rough language to him.

Trial Examiner Persons: The record will show that this was done at sea.

A. Yes.

Trial Examiner Persons: Now with some anticipation of Mr. Martin, perhaps, I am going to ask another question, if I may. Did you in any sense get proof so that your talk to him would have a firm basis?

A. No, sir.

Mr. Williams: I don't know whether the witness understood that question or not.

Trial Examiner Persons: Read it and the answer.

(The question and answer were read.)

Trial Examiner Persons: You said "get him." Did you mean to get proof so that when you had your talk with him you would have something solid to base your talk on? Is that what you meant by getting him?

Read it, Mr. Reporter.

(The question was read.)

A. Yes.

Trial Examiner Persons: Objections run against the [2219] Examiner just the same as anybody else, Mr. Martin.

Mr. Martin: I am satisfied, Mr. Examiner.

Trial Examiner Persons: All right.

(Testimony of C. B. Johannesen.)

Mr. Williams: I think that is all I have.

Trial Examiner Persons: Any further questions, Mr. Martin?

Mr. Williams: Wait just a minute. That is all.

Trial Examiner Persons: Recross by Mr. Martin.

Recross Examination

Q. (By Mr. Martin) Where was the boat when you watched Mr. Zinkiewicz for two hours straight?

A. Around the Florida straits, I think. Just about going up the Florida straits.

Q. How long had she been out of Port Arthur?

A. Three days. On the fourth day, I think it was, if I am not mistaken.

Q. How long prior to the fourth day out had you first noticed that Mr. Zinkiewicz was lagging in his work?

A. From the second. On the third day the boatswain came and complained about him. [2220]

Q. That is the first notice you had had?

A. That is the first notice, yes.

Q. What did Mr. Zinkiewicz do between that time when the boatswain came to you on the third day and the afternoon of the fourth day that caused you to want to observe him for two solid hours in order to find out exactly what he was doing?

Trial Examiner Persons: Any time Mr. Johannesen you would like the question read, if you will just apply to the reporter he will read it for you.

A. Yes. I don't understand it.

(Testimony of C. B. Johannesen.)

(The last question was read.)

A. I don't remember now what he was doing. General work I guess. Let me see what we were doing before that? That is hard to remember, little minor things like that. I don't remember what it was.

Q. (By Mr. Martin) Well, as a rule you don't observe seamen for two solid hours who have been on your boat only four days unless there is some reason for it?

A. There is some I don't never have to look at. They go and perform their work and don't have to be watched.

Q. So it would be very unusual for you to watch a seaman for two solid hours? A. Yes, sir.

Q. He would have had to do something wouldn't he quite out of the ordinary so as to have brought himself to your atten- [2221] tion to such an extent that you would care to watch him for two solid hours?

A. I don't see where it could be anything out of the ordinary. When a man comes and complains to me that a certain man will not do any work, I am going to find out for myself if that is the truth, and therefore I am going to stay there and watch him and watch the amount of work that he does.

Q. Can you name any other seamen whose work you have watched for two straight hours to see what kind of work he was doing?

(Testimony of C. B. Johannesen.)

A. Yes. I watched Rosen painting that mast down. That took him four hours. I watched him for four hours sitting up there and then he didn't get finished with it.

Q. Now, when did that take place, Mr. Johannesen?

A. The same voyage. It must have been about 5 days or 6 days out. We were around about Hatteras. That should be five or six days.

Q. Anybody else?

A. Well, I watched several of them. If they don't perform their work well, I make the complaint to the master and the master makes the decision.

Q. Now, you testified before that Rosen's work began to slacken the second or third day out from Port Arthur on the first trip? A. Yes, sir.

Q. What if anything did Rosen do between that time and the [2222] fifth or sixth day out of port which caused you to note his work on that mast especially for four hours?

A. Not specially. You see the mast is right there in front of me and all I have to do is stay there and look at the man when he works and I can stay on the rail there or watch him anywhere from the ship and notice the way that he works and I said to myself: "Well, that is a nice piece of work that man is doing up there."

Q. Where were you standing?

A. On the after end of the midship house.

(Testimony of C. B. Johannesen.)

Q. Did you leave that point at all during those four hours? A. Yes, I did.

Q. For how long?

A. Oh, I will say 5 or 10 minutes. I went in and got me a cup of coffee occasionally and to smoke in my room and came back out again and there he sat. He wouldn't have shifted a foot. He just sat up there on the boatswain's chair.

Q. What mate was in charge of his work at that time? A. Me.

Q. Had you assigned him to that job?

A. Yes, through the boatswain.

Q. Through the boatswain? A. Yes.

Q. Can you be sure at this time that the boatswain didn't give Rosen something else to do during part of those four [2223] hours?

A. No, sir, when he got up in that boatswain's chair there he was comfortable. He was sitting there taking life easy. Of course, he came down for coffee and went back up again. He had 20 minutes for coffee.

Q. Well, now, what if anything had Rosen done between the second and third day and this later day, the fifth or sixth day out of Port Arthur, which caused you to note especially that he took four hours to do that job?

A. After we left Port Arthur? What was that? Mr. Martin: Read the question to him.

(The last question was read.)

(Testimony of C. B. Johannesen.)

A. Well, that is a hard question to answer I guess. He had been doing his work previously to that and lagging on it and I couldn't help but seeing it. Anyone could have seen him hanging up there in that boatswain's chair. You couldn't help that.

Q. (By Mr. Martin) Mr. Johannesen, when you fired Rosen and Buckless and Zinkiewycz did you tell to them all of the reasons why you were firing them?

A. No, sir. The only one that asked me the reason was Rosen. The other two took their money and left.

Q. Mr. Johannesen, have you ever criticized one man for standing another man's watch without first getting permission from you to do so? [2224]

A. I haven't criticized him, no.

Mr. Williams: Mr. Examiner, I don't know whether the witness thoroughly understands the meaning of the word "criticize." He might use some other word; "reprimand;" something of that sort.

Trial Examiner Persons: I thought the record was clear. If not——

Mr. Williams: The language was clear. I don't know whether he understood it or not.

(The last question and answer were read.)

Trial Examiner Persons: What did you think it meant to criticize a man, Mr. Johannesen?

A. I never said a word to the man about missing his watch.

(Testimony of C. B. Johannesen.)

Trial Examiner Persons: To him? To any man?

A. To any man.

Q. (By Mr. Martin) Have you ever fired a man at New York City?

A. Not on that ship.

Q. Have you on any Texas Company ship?

A. No, sir.

Q. Have you ever fired a man at Bayonne, New Jersey?

A. No, sir.

Q. Have you ever fired a man at New Orleans?

A. No, sir.

Q. Have you ever fired a man on The Texas Company ship at [2225] any port except Port Arthur?

A. No, sir.

Q. Is it or is it not a fact that The Texas Company is continually hiring and firing men at points other than Port Arthur?

A. Not that I know of.

Mr. Martin: That is all.

Trial Examiner Persons: I would like to ask this question.

Q. (By Trial Examiner Persons) How frequently, Mr. Johannesen does that main mast get a coat of paint?

A. Sir?

Q. How frequently does that main mast get a coat of paint?

A. Every three or four months.

Q. That is just routine is it?

A. Yes.

Trial Examiner Persons: Anything further?

Mr. Pipkin: No questions.

(Testimony of C. B. Johannesen.)

Mr. Martin: I have one or two more questions, if I may be permitted.

Trial Examiner Persons: Yes, Mr. Martin, but it is a bit discourteous to the mate. However, he says it will be all right.

(Discussion off the record.)

Q. (By Mr. Martin) Did you lay for Mr. Zinkiewicz for two [2226] hours solely to be able to tell him afterwards that you had watched him for two hours?

A. Yes, sir. I didn't only tell him that. I told him plenty.

Q. Wasn't it also so that you could tell some other people that you had watched him for two solid hours and what he had been doing?

A. No. I never told any other people about it. I told the captain. That is right.

Q. Now, after you had laid for Zinkiewicz for two hours during the first voyage and fired him at the end of that voyage and took him back on the second voyage, did you lay for him on the second voyage?

A. I watched him occasionally, sure, and I saw that he wouldn't make no improvement.

Q. Did you watch him a little more closely than you watched some other men perhaps?

A. I watched him and Rosen particularly.

Q. On the second trip?

A. Yes, to see if they wouldn't improve any.

(Testimony of C. B. Johannesen.)

Q. Now, you testified on direct examination that after you fired Zinkiewycz at the end of the first trip you had a conversation with Mr. Hand and then put him back to work. Is that correct?

A. Yes, sir. [2227]

Q. What did Mr. Hand say to you?

A. He told me that "We will try and let him go another trip. We will try him and see if he won't do better."

He had been up in the office and complained to Mr. Hand.

Trial Examiner Persons: To Mr. Hand about you?

A. No, no. About something. I don't know what it was about. Mr. Hand never told me. He said to try him another trip and he will do better. So he came in my room and said: "Well, Mr. Mate, you take me back and I will do better this trip."

Q. Was Buckless present when you had that conversation with Mr. Hand? A. No, sir.

Q. And was Rosen? A. No, sir.

Q. Are you sure that neither of them overheard that conversation?

A. There was no one there except me and Mr. Hand. I believe he talked to Buckless afterward, but I didn't hear what they were talking about. At least I saw them going back aft together.

Q. Hadn't Buckless and Rosen talked with Mr. Hand before about the Zinkiewycz case?

A. I don't think so.

(Testimony of C. B. Johannesen.)

Q. Didn't Mr. Hand tell you that they had?

[2228]

A. No, sir.

Q. Did Mr. Hand make any reference to Buckless or Rosen? A. No, sir, none whatsoever.

Q. Did Buckless or Rosen complain to you about the discharge of Zinkiewycz at the end of that first voyage? A. No.

Q. Did you inform Zinkiewycz and Rosen at the beginning of the second voyage that they were on probation that trip?

A. On probation? Yes, I told them, both of them, if they didn't pick up and do their work "We will have to get somebody else that will do it."

Mr. Martin: That is all. Thank you. [2229]

G. A. BERGMAN

a witness recalled by and on behalf of the respondent, being previously sworn, was examined and testified as follows:

Redirect Examination

Q. (By Mr. Pipkin) Mr. Bergman, since you were on the witness stand yesterday have you had an opportunity to check over your crew list?

A. I decided I didn't quite understand the question of change in the crew, so I thought I had better check them up and see.

Q. For what period of time have you checked your crew list over?

(Testimony of G. A. Bergman.)

A. From January to November 6 this year.

Q. Does that include the first——

A. The first voyage of this year to November 6 of this year. [2253]

Q. Does that include the first voyage of the year through the beginning of the last voyage you took on the "Washington" before coming ashore?

A. Yes. That was the voyage beginning November 6, I believe.

Q. On the crew list that was introduced yesterday, Captain, there is one column "Paid off previous trip, left ship." You identified yesterday in that column the names of Buckless, Zinkiewycz and Rosen and another one was included.

A. It was on one of them crew lists.

Q. Each time a man left a ship did you fill out the blanks left on the back of the crew list for that purpose?

A. Yes, whether he is chief engineer, chief mate, first assistant, whether he is taking a vacation, whether he is quitting himself, whether he is going to the hospital. I must put that down on the crew list.

Q. During the period of time you have talked about here how many people during that period of time have left the ship according to your entries?

A. According to the entries on the crew list that you have there, I added it up and it is 81 members, including the chief engineer and all the other mem-

(Testimony of G. A. Bergman.)

bers that went off on vacation, went to the hospital, or left the ship of their own accord.

Q. I note here some of these men left for time off.
A. Yes, sir.

Q. Some of them were on relief trips only?
[2254]

A. Yes, sir.

Q. Some of them left because of injuries?

A. Yes, sir.

Q. Some of them left because of discharges?

A. Yes, sir.

Q. For illness in the family? A. Yes, sir.

Q. Drunkenness and insubordination?

A. Everything.

Q. Every reason you have listed?

A. Every time a man gets off the ship, I put it down.

Q. Some of those 81 have come back to the ship from time to time?

A. Stay off a couple of trips and come back again.

Mr. Pipkin: That testimony, Mr. Examiner, is offered in line with the inquiry you directed the witness' attention to yesterday afternoon.

Trial Examiner Persons: Yes, I remember.

Mr. Pipkin: That is all I want to bring out.

Trial Examiner Persons: Could we ask the question this way, Captain Bergman? If you took your crew list on the first voyage and your crew list now, including men on vacation, if there are

(Testimony of G. A. Bergman.)

'any, how many names would be different on the crew list now from the crew list of the first voyage this year? A. I couldn't tell you. [2255]

Q. Let's have your impression first and then let's count them. Could we do that? What would you think?

A. The men that actually left the ship, coming back again, went to the hospital and came back again, and so on, I added it up last night and it was 81.

Q. And your crew was 35, is that correct?

A. Yes, sir.

Q. You had 35 on your first voyage?

A. Always 35 men.

Q. And you have 35 now? A. Yes, sir.

Q. Of the 35 you have now, how many of them did you have on that first voyage?

A. I can't tell you that unless I check it up.

Q. What would you think? What would be your best estimate?

A. I couldn't tell you unless I looked up the crew list.

Q. You can't tell exactly, but then I think you probably know, Captain.

A. I don't want to say wrong. Might be half the crew.

Q. About half is your best guess?

A. My best guess, more or less.

Q. Suppose we have the Captain check and see.

Mr. Pipkin: It is going to be a pretty lengthy situation, Mr. Examiner.

(Testimony of G. A. Bergman.)

Q. (By Trial Examiner Persons) Well, have you the same [2256] captain you had then?

A. I am the same man.

Q. Have you the same mate you had on that first voyage? A. Yes.

Q. Have you the same engineer?

A. The same chief and the same assistants.

Q. Have you the same assistant engineers?

A. The same four engineers.

Q. The same steward?

A. The same steward.

Q. The same radio man?

A. The same radio man, the same mates; the same three mates.

Q. There are three engineer officers?

A. Four with the chief.

Q. Four and four are eight and the radio man and the steward make ten? A. Yes, sir.

Q. Of the three quartermasters, how many are different?

A. I don't know if there is any.

Q. Do you have the same boatswain?

A. No, we haven't got the same boatswain.

Q. The boatswain is changed?

A. Yes. The same oilers and firemen are there.

Mr. Pipkin: You are taking this by titles. He can check that easily with reference to the January 12 and the [2257] November 6 list. He can answer your inquiry about the quartermasters without any trouble. They are all listed together.

(Testimony of G. A. Bergman.)

A. No quartermasters. Not the same quartermasters.

Q. (By Trial Examiner Persons) None of the three are the same?

A. No.

Q. Would you regard the three you have on the last crew list as the permanent quartermasters for your ship?

A. Yes. They have been quite a while there.

Q. And as far as you know now, you expect them to continue?

A. Yes, sir. They have been there over six months or more.

Q. While I think of it, I just suggest this question: How do you manage on the vacation time? They get two weeks' vacation if they are long term men and one week for short service, but the voyage is ordinarily three weeks.

A. That is arranged by the office. I haven't had the experience of arranging for any vacations.

Q. But if a man on your ship is entitled to a vacation and has gone on vacation——

A. He goes and sees Mr. Hand and he arranges it.

Q. Is he gone for a voyage or only for his vacation time?

A. Well, he is off the ship for the voyage. [2258]

Q. Do you know what happens to him for the extra week or two weeks?

(Testimony of G. A. Bergman.)

A. I don't know. That is up to the office. I don't arrange any vacations.

Q. But you do know from your crew list whether he is on vacation?

A. Oh, yes, they tell me he is going on vacation.

Q. You put that on the crew list?

A. I put that on the record; on the back of it.

Mr. Pipkin: I tell you what I can do to materially shorten it: I can give the names for the January 12th list and the November 6th list to the stenographer.

Trial Examiner Persons: Give us the two lists and the ratings?

Mr. Pipkin: All right, sir.

Trial Examiner Persons: Any questions, Mr. Martin, of this witness?

Mr. Martin: I have no questions, Mr. Examiner, concerning the subject matter of this last inquiry. I would like to ask him a couple of other questions if Mr. Pipkin doesn't object.

Mr. Pipkin: Well, I don't want to be in the position of keeping you from examining the witness. I thought you were through with him yesterday though.

Mr. Martin: As a matter of fact, I was, but this has [2259] arisen since.

Mr. Pipkin: Go ahead.

Trial Examiner Persons: Go ahead, Mr. Martin. Let's get on.

(Testimony of G. A. Bergman.)

Cross Examination

Q. (By Mr. Martin) Captain Bergman, were you captain of the "Washington" in 1931?

A. Yes, sir.

Q. What was the final port of discharge in the trips you were making in 1931?

A. I will have to look at the records for that. That is too far back to remember.

Mr. Pipkin: I can't see the relevancy of such an inquiry to the proceeding here, Mr. Examiner.

Trial Examiner Persons: I don't either, but we have preliminary questions and things come out later. He said he can't remember, Mr. Martin.

Q. (By Mr. Martin) Has Port Arthur always been the final port of discharge?

A. While we are trading to Port Arthur, running coastwise up north and down here again on those voyages.

Q. Now, in 1931, did you take a trip on the "Washington" out to California?

A. Yes. I got to look in the log books. I can't answer you directly. [2260]

Trial Examiner Persons: Did you take a trip to California at some time or other on the "Washington"?

A. If I remember rightly I left California during the month of February on the "Washington" for the east coast.

Trial Examiner Persons: What year?

A. 1931.

(Testimony of G. A. Bergman.)

Trial Examiner Persons: As master?

A. As master.

Q. (By Mr. Martin) Was the boat at Los Angeles, California, on September 30, 1931?

Mr. Williams: Mr. Examiner——

A. I don't know that unless——

Mr. Williams: Just a moment, Captain. Mr. Examiner, that is going back a little over 7 years; a little over 7 years; and unless the counsel is going to be able to connect it up with this matter now under examination, I think it is going entirely too far afield and is irrelevant to this inquiry and I make that objection.

Trial Examiner Persons: Judge Williams, I can hardly forebear saying that there was a time this morning when you wanted to go back to 1919.

Mr. Williams: Well, I don't remember the occasion or couldn't.

Trial Examiner Persons: I do have some doubts about the fairness of asking Captain Bergman about a definite date [2261] at a certain port in 1931 in view of what the record shows of his movements about from port to port since that date. Can you remember, Captain Bergman?

A. I have been going in and out of ports once a week and when I get out of a port I forget it for the very simple reason I have so many things to attend to and such a matter as going in and out of ports I try to forget.

(Testimony of G. A. Bergman.)

Trial Examiner Persons: I am sure Mr. Martin will forgive you if you say you can't remember that date in that port.

Mr. Pipkin: To expedite that matter, can you and Judge Williams and Mr. Martin and I have a little discussion off the record to find out what he is talking about? We don't want to encumber this record, and if what you are getting to eventually, Mr. Martin, is not properly admissible, we want to get to it now before we get it in the record, whatever you are shooting at.

Trial Examiner Persons: Suppose we come to your table and discuss it, Mr. Pipkin?

Mr. Pipkin: All right.

(Discussion off the record.)

Q. (By Mr. Martin) Well, Captain Bergman, have you taken many trips to California?

A. Yes.

Q. In the "Washington"? [2262]

A. Yes, we used to run steady for years between California and the east coast.

Mr. Pipkin: I thought we had straightened this thing out. I object to any further testimony along the line of questions he has suggested. It would be irrelevant and immaterial, too far to go back and be material to any issue in this case. If the ruling was proper this morning on the 20 year ago navy matter, it is certainly proper in connection with this matter.

(Testimony of G. A. Bergman.)

Trial Examiner Persons: The objection will be sustained.

Mr. Martin: I trust, Mr. Examiner, not on the grounds stated by counsel.

Trial Examiner Persons: The objection will be sustained, Mr. Martin. Would you care to make an offer of proof for consideration of the Board?

Mr. Martin: Yes, I would like to state that I can prove that when Los Angeles was not the final port of discharge Captain Bergman signed the certificate of discharge and in fact fired one Joseph Dugan in Los Angeles on September 30, 1931.

Mr. Pipkin: Are you having in mind an intercoastal voyage, Mr. Martin?

Mr. Martin: Yes, that is right; intercoastal.

Mr. Pipkin: Well, your Hoonr, I don't know where that leavees us now. He says he has proof as to that. The head of [2263] Marine Department here says that Los Angeles was at that time a final port of discharge.

Trial Examiner Persons: Was not?

Mr. Pipkin: Was.

Trial Examiner Persons: What is that?

Mr. Pipkin: Was a final port of discharge and signing on before the Commissioner for intercoastal voyages at that time, with the custom of paying off at Los Angeles. He says he can prove that and I say the head of our Marine Department has told us that at that time they paid off at Los Angeles before Commissioners for intercoastal voyages.

(Testimony of G. A. Bergman.)

Trial Examiner Persons: For the record and for my own benefit, may I ask about the definition of "intercoastal." That seems to go from the Gulf or Atlantic Coast to California **points**.

Mr. Pipkin: Atlantic to Pacific or Pacific to Atlantic Coast.

Trial Examiner Persons: But from the Gulf to the Atlantic Coast is not intercoastal? That is coast-wise?

Mr. Pipkin: That is right and I understand that an intercoastal voyage requires signing on before a Commissioner.

Trial Examiner Persons: May I just ask a question to satisfy my own curiosity. That is based on the conditions existing before the canal was open, when they went around South America. [2264]

Mr. Willaims: Not necessarily, sir. It is a long voyage. I wish to make this objection to the question. Mr. Martin in framing that question has testified——

Trial Examiner Persons: That is an offer of proof. That is for the benefit of the Board in considering the Examiner's ruling in excluding the testimony.

Mr. Williams: But he used this statement: When Los Angeles was not a port of discharge. He said that, but we don't know that.

Trial Examiner Persons: Do you wish to object to that statement?

Mr. Williams: I object to that statement.

Trial Examiner Persons: You make the counter statement that at that time on intercoastal voyages it was a port of final discharge?

Mr. Williams: I make the counter statement that I just don't know and he said it was so and I object to that until he proves it.

Mr. Pipkin: Are you through with the witness?

Mr. Martin: Yes, I am through. That is all.

Trial Examiner Persons: You will be excused, Captain.

(Discussion off the record.) [2265]

BOARD'S EXHIBIT No. 6
CONSTITUTION
of the
NATIONAL MARITIME UNION OF AMERICA
Affiliated with the CIO
[Insignia]

Founded May 3, 1937

As adopted by the Constitutional Convention held in New York City, July 19, 1937, and ratified by referendum vote of the membership between Sept. 15 and Nov. 15, 1937.

Preamble

Whereas organization is the only means by which the seamen may hope to advance their interests and

(Board's Exhibit No. 6—continued.)

attain final emancipation from the many evils attending their calling, and

Whereas we have learned from bitter experience that the main aim and purpose of the employing interests is at all times to divide and keep apart organizations endeavoring to unite for their common interests, and

Whereas the industrial form of organization will insure more unified and harmonious action in all matters directly affecting the interests and welfare of our membership, we

Therefore declare ourselves in favor of the organization of an Industrial Union, to be known as the National Maritime Union of America, and we further declare that in order to protect the interests of the majority of the membership who are aboard ship and in ports throughout the world, we have adopted this Constitution.

Objectives

Article I

Section 1—Name: This organization shall be known as the National Maritime Union of America. It shall not be committed to favor any particular religious creed or political belief; neither shall affiliation herewith interfere with the religious or political freedom of its members, and for purpose of brevity to be known as the NMU.

(Board's Exhibit No. 6—continued.)

Sec. 2—Powers: The powers exercised by the National Council hereinafter provided for, shall be only those powers granted to it by the members of the Union, acting through a convention composed of duly elected delegates, and the National Council shall not exercise any powers not specifically granted to it by the membership.

Sec. 3—Objects: (a) To unite in one organization regardless of creed, color, nationality or political affiliation all workmen eligible for membership, directly or indirectly engaged in the shipping and maritime transportation industry.

(b) To increase the wages and improve the conditions of employment of our members by legislation, conciliation, joint agreements or strikes.

(c) To strive for a minimum wage scale for all members and to obtain reasonable working hours which should not go below the minimum set by the Union.

(d) To secure equitable statutory old age pensions, unemployment insurance and accident insurance.

(e) To insure by legislative enactment laws protecting the limbs, lives and health of our members; especially our right to organize and to strike; prohibiting the use of deception to secure strikebreakers; preventing the employment of privately armed guards during labor disputes, and such other legislation as will be beneficial to the members of our organization.

(Board's Exhibit No. 6—continued.)

(f) To promote and extend the adoption of union principles and affiliation with labor unions and national labor organizations.

(g) To insure greater stability and safety in the construction and sailing of ships and to secure increased ship's accommodations for seamen and the maintenance of adequate and sanitary accommodations.

(h) To provide an efficient class of men who are qualified to perform their duties.

(i) To secure the enactment of a manning scale for all classes of vessels based on gross tonnage; adequate working conditions and working hours through legislation and/or economic action.

(j) To assist the seamen of other countries in the work of organization and federation to the end of establishing the Brotherhood of the Sea.

(k) To assist other bona fide workers organized and unorganized whenever possible and feasible in the attainment of their just demands.

(l) To establish a legislative committee in Washington whose object shall be among others, to have passed laws beneficial to the interests of maritime workers and enabling seamen to exercise their franchise to vote either directly or by absentee ballot.

(m) The National Maritime Union of America shall cooperate with all other maritime unions for the purpose of defending the immediate interest of

(Board's Exhibit No. 6—continued.)

all maritime workers involved and shall strive for the unification of all maritime workers on a national scale.

Affiliation

Article II

Section 1—The National Maritime Union of America shall apply for affiliation with the Committee for Industrial Organization, upon its organization, or with any National or International Labor Organization hereafter to be organized on a national or international basis, subject to a referendum of the membership, which will unite the workers in all industries, provided that such labor organization will be composed of an affiliation of unions organized on an industrial basis.

Sec. 2—That upon the affiliation of any new District, the three (3) members elected to the District Committee of such District shall automatically become members of the National Council, and such District Committee shall perform the duties and have the powers at the time vested in the members of any District Committee at the present time affiliated with the National Maritime Union of America.

Sec. 3—Any bona fide group of workers engaged in shipping or in connection with the marine transportation industry, not yet affiliated with the National Maritime Union of America, may become af-

(Board's Exhibit No. 6—continued.)

filiated as a Division of the District, where the particular Division may find itself.

Sec. 4—The membership at a regular joint meeting held in branches or headquarters in each district may by a majority vote affiliate with any local or state trades or labor council, provided that the principles upon which the local or state trades or labor council is based are not in conflict or inconsistent with the aims and purpose herein recited. In the event of a tie vote, then the President shall cast the deciding vote.

System of Organization

Article III

Section 1—The biennial convention of delegates elected from ship and shore by general vote, shall be the authority of this Union. And this Constitution and any By-Laws adopted by subsequent conventions, hereinafter provided for and ratified by the membership, shall be the governing agency of the National Maritime Union of America.

Sec. 2—The National Maritime Union of America shall be divided into distinct districts, said districts to be known as the Atlantic District, Gulf District, Great Lakes District, and any other District that may at some future time be formed and become affiliated with any part of the National Maritime Union of America.

(a) The Atlantic District shall include all maritime workers engaged in the shipping and marine

(Board's Exhibit No. 6—continued.)

transportation industry; in ports, bays, sounds, rivers and estuaries lying between the most northeasterly point in the State of Maine, along the Atlantic and including the City of Key West, Florida and Puerto Rico. The headquarters of the Atlantic District shall be in the City of New York.

(b) The Gulf District shall include all maritime workers engaged in the shipping and marine transportation industry in all ports lying in the Gulf, sounds, bays and rivers flowing into the Gulf of Mexico and lying between Key West and the most south-westerly point of the State of Texas. The headquarters of the Gulf District shall be in the City of New Orleans.

(c) The Great Lakes District shall include all maritime workers engaged in the shipping and marine transportation industry on the Great Lakes, canals or rivers abutting or joining the Great Lakes between the mouth of the St. Lawrence River and the most westerly point of Lake Superior. And the headquarters of the Great Lakes District shall be in the city selected by this district.

Sec. 3—Each District shall have complete autonomy in all of its local affairs, except as hereinafter provided, and shall be governed by its elected District officers and a District Committee, composed of these three elected officers, known as the District Secretary, District Treasurer, District Chairman and one member from each division who shall be

(Board's Exhibit No. 6—continued.)

elected Secretary-Treasurer for that Division at Headquarters.

Sec. 4—Each District shall have complete autonomy with respect to the local affairs affecting members in its District, but any matter which may, directly or indirectly, affect all the members of the Union on a National basis, shall be under the jurisdiction of the National Council, except as may be hereinafter provided.

Sec. 5—All of the District Officers and the Secretary-Treasurer of each division at headquarters as well as branch agents and joint branch agents shall be elected annually by referendum vote as provided hereinafter.

Sec. 6—Patrolmen charged with the responsibility of visiting ships and dealing directly with union members shall be elected as provided for hereinafter.

National Council

Article IV

Section 1—The National Council shall be composed of three officers to be known as the National President, National Vice-President and National Secretary-Treasurer, who, jointly with the three district officers of each District, shall constitute the National Council and shall act on all matters which affect all members of the National Maritime Union of America on a national basis, except as may be hereinafter provided.

(Board's Exhibit No. 6—continued.)

Sec. 2—The National Council shall maintain its Headquarters in the City of New York.

Sec. 3—The National Council shall meet at least once every three months; the first meeting shall be held on the first of the month immediately after the biennial convention is adjourned and on the first day of every third month thereafter. However, any three members of any District Committee may demand that a Special General Meeting of the National Council be called, and such meeting shall be called no later than one week after such notice is given in writing. At a special meeting of the National Council any and all business that might be transacted at the quarterly meeting of the Council may be transacted at this meeting.

Sec. 4—A quorum of the National Council shall consist of at least one (1) National officer and two members from each District Committee who must be present to constitute said quorum and the business of the National Council shall be transacted through a majority of a quorum of the National Council.

Sec. 5—At all times between the holding of either regular or special meetings of the National Council any two National officers and three District officers from the District affected by an emergency shall constitute a Sub-Committee of the National Council, and shall have power to transact the emergency business of the District affected.

(Board's Exhibit No. 6—continued.)

Powers and Duties of the National Council

Article V

Section 1—The National Council shall have only such powers as are delegated to it by the Constitution and By-Laws adopted by duly elected delegates convened in any biennial convention, and the Council shall not exercise any powers which are not specifically granted in the exercise of the powers directly granted.

Sec. 2—The duties of the National Council shall be to prepare and submit to the biennial convention of delegates reports on:

- (a) the best means to observe the rules of the union;
- (b) the best method of safeguarding the interests of the members of the Union;
- (c) questions on which the rules or any agreement are silent or doubtful;
- (d) any inquiry or suggestion for the settlement of the differences between various Divisions of the Union, or between Divisions and members of the Union and between the Branches of the Union, or Divisions of the Union at various Branches, or between the National Maritime Union of America, and any other Union affiliated with the Committee for Industrial Organization or any other National Organization with which the National Maritime Union of America may be affiliated;

(Board's Exhibit No. 6—continued.)

(e) questions of difference between this Union and any other Union;

(f) the best methods of investing and protecting the available funds of the Union;

(g) on negotiations for the making of agreements;

(h) any inquiry made as to the management of the affairs of any Branch of this Union, and to make any recommendation such inquiry may warrant;

(i) the work of the Union since the previous convention was held.

Sec. 3—The National Council shall employ any clerical help needed to conduct the business of the National Council.

Sec. 4—The National Council shall record all of its financial transactions in a double entry set of books; maintain a separate deposit account, and pay the salaries of the National officers and the salaries of the necessary clerical staff.

Sec. 5—Checks or other instruments for the withdrawal of funds of the Union shall be drawn on the signature of any two of the following officers: National President, National Vice-President, National Secretary-Treasurer. Each of the officers shall be bonded in the sum of \$10,000, the premium to be paid by the Union. No check or other instrument withdrawing more than \$500 shall be executed unless ordered in writing by the National Council.

(Board's Exhibit No. 6—continued.)

Sec. 6—The National Council shall have power to hear and decide appeals which may be taken by any member of the National Maritime Union of America, appealing from a decision of the District Committee or from any trial committee elected to try a member for violating the provisions of this Constitution, and from whose decision the aggrieved party desires to appeal.

Sec. 7—It shall be the duty of the National Council to deposit all monies received as revenue of whatever description, in a bank or banks to be agreed upon by the Council, provided the banks are friendly to labor.

Sec. 8—The National Council shall have power to incur debts or disburse the funds of the Union, and no individual member of the Council, whether he be a National officer, officer or member, shall have authority to disburse any monies or incur any debts not previously authorized by a two-thirds vote of the National Council permitting such expenditure.

Sec. 9—It shall be the duty of every member of the National Council to be present at all regular or special meetings, provided for by this Constitution, unless unavoidably detained by illness or because of special engagement in Union business.

Sec. 10—Real Estate owned or acquired by the National Maritime Union of America shall be held in the name of the National President, National Vice-President, National Secretary-Treasurer and

(Board's Exhibit No. 6—continued.)

their successors in office as trustees, for the National Maritime Union of America.

Sec. 11—The Council shall have power between conventions, by a two-thirds vote, to recommend the calling of a general strike, but under no circumstances shall it call such a general strike until approved by a referendum vote of the membership.

Sec. 12—Questions coming before the National Council may be decided by a unit vote of its members. Where a unit vote is taken, a full quorum must be present and the Vice-President and the Secretary-Treasurer shall be entitled to vote; but, in the event of a tie vote the President will cast the deciding vote.

Sec. 13—The publication to be issued by the National Maritime Union of America shall be known as the National Maritime Union Pilot, and shall be managed by a Board of three, an Editor-in-Chief, Assistant Editor, and a Managing Editor, and in addition a Corresponding Editor for each District. The Editor-in-Chief shall be a member in good standing of the American Newspaper Guild. The Assistant Editor, Managing Editor and Corresponding Editors shall be bona fide seamen members of the Union. The Editor-in-Chief, Assistant Editor, and the Managing Editor shall be elected by a two-thirds vote of the National Council and the salaries of all editors shall be fixed by the said Council.

The Editor-in-Chief, Assistant Editor and Managing Editor may be removed by either (1) a two-

(Board's Exhibit No. 6—continued.)

thirds vote of the National Council or by, (2) the adoption of a resolution within a period of a month by two regular membership meetings held in any one district. Upon the receipt of any two such resolutions by the National Council a special meeting of the Council must be called immediately. The Editor or Editors charged must be immediately suspended pending a decision on the charges.

The Corresponding Editors may be removed at regular meetings called at headquarters in their respective districts. The Corresponding Editors may be suspended upon the request of a resolution adopted at any two branch or at a divisional meeting at headquarters.

The National Council shall at all times be held directly responsible to the membership for the policy of the Pilot. Applicants' applications for the positions of Editor must be presented in writing giving full particulars of their qualifications. The National Council must investigate all qualifications before considering the applications.

Sec. 14—The Legislative Committee shall consist of two members who shall be bona fide seamen, members of the Union and shall be elected by the National Council. No member of the National Council shall be a member of the Legislative Committee. The Legislative Committee shall at all times be subject to the instructions of the National Council. The National Council is at all times responsible for work of the Legislative Committee.

(Board's Exhibit No. 6—continued.)

Any member of the Legislative Committee shall be subject to removal by a two-thirds vote of the National Council. When Congress is not in session it should consist of not more than one member.

Organization of the District Committee

Article VI

Section 1—The District Committee shall be composed of the three (3) District officers to be known as the District Chairman, District Secretary and District Treasurer, as well as the Secretary-Treasurer of each Division at Headquarters.

Sec. 2—The District Committee shall meet at least once each month, and a quorum of the Committee shall consist of five members, provided that each Division is represented by at least one member and at least two of the District officers.

Sec. 3—The District Committee shall meet on the 15th day of each month, unless the 15th should fall on a Sunday; or more often, upon the joint written demand either of (a) any two Secretaries of Headquarters Divisions or (b) upon resolutions adopted by the membership meetings of any two divisions of any two ports requesting such a meeting. Said meeting to take place no later than three days after such written demand is made.

(Board's Exhibit No. 6—continued.)

Powers and Duties of the District
Committee

Article VII

Section 1—Each District Committee shall employ any clerical help, provided they are union members, necessary to conduct the local business of each Division.

Sec. 2—The District Committee shall be responsible for the collection of dues, fines and assessments from every member in its District. Said money shall be deposited in a bank friendly to labor, selected by the District Committee, and all checks or other instruments for the withdrawal of funds collected by the District Committee, shall be drawn on the signature of any two of the following: District Chairman, District Secretary and District Treasurer.

Sec. 3—Each of the District officers shall be bonded in the sum of \$10,000, the premium to be paid by the District Committee. No check or other instrument withdrawing more than \$300 shall be executed unless specifically ordered in writing by the District Committee.

Sec. 4—The District Committee shall record all of its financial transactions in a regular double entry set of books; and on the first of each month, shall submit to the National Council a statement indicating all monies received during that month, all monies expended to meet the immediate obligations

(Board's Exhibit No. 6—continued.)

in the form of salaries, rent and incidentals, as well as a per capita tax of 25 percent of all monies received as dues, assessments or otherwise, by the District Committee, to be published in full in the Pilot.

Sec. 5—The District Committee shall have the power to supervise all the activities of all Divisions at Headquarters and Branches and the District Committee shall hear and make recommendations on all appeals taken from the decisions of Division officers or the decisions of Trial Committees elected at Division meetings in their respective Districts. Their recommendations shall be submitted to the Branch involved for ratification or rejection by the membership.

Sec. 6—Each District shall conduct annually, by secret ballot, a referendum vote for the election of District officers, Division Branch Agents and Joint Branch Agents.

Sec. 7—These District elections shall be held during the months of December and January of each year, and balloting shall continue throughout these two months, beginning on the first day of December at 8:00 A. M. and ending on the 31st of January at 6 P. M.

Sec. 8—At the annual election immediately preceding the biennial National Convention there shall be elected in each District as many delegates to the biennial convention as the District is entitled to, and in addition to the said delegates there shall

(Board's Exhibit No. 6—continued.)

also be elected three alternate delegates who shall take the place made vacant by reason of the death, resignation, disability or disqualification of any duly elected delegate. The District Committee shall designate that available alternate who, during the election, received the highest number of ballots.

Sec. 9—For all ports other than headquarters, the number of agents and patrolmen shall be determined by the requirements and needs of that port, subject to the recommendations of the District Committee and the approval of the membership of the respective ports. The agents and the patrolmen in each port shall constitute a Port Committee. A chairman shall be elected from this committee at a joint membership meeting. The port chairman shall be responsible to the District Committee and the membership for the coordination of that port.

Sec. 10—The District Committee shall have compiled a list of those ships that will be outside territorial waters during the period covering the elections.

Sec. 11—The District Committee shall instruct the Balloting Committee to forward sufficient copies of the ballots to the ships' committee together with instructions and all other material necessary to insure proper voting procedure.

Sec. 12—It shall be the duty of the District Committee to submit a report of the results of the National and District elections and this report shall specifically indicate the balloting on board ships.

(Board's Exhibit No. 6—continued.)

Division Organization

Article VIII

Section 1—Each Division shall have complete autonomy with respect to all local matters affecting each Division. All rules and regulations affecting in any way whatsoever each Division shall be proposed and adopted by the membership of each Division at their regular meetings; provided, however, that no Division shall propose and adopt rules or regulations which will in any way conflict with the provisions of this Constitution.

Sec. 2—At headquarters each Division shall hold at least one meeting each week. These meetings shall be presided over by a Chairman elected by the membership.

Sec. 3—Minutes of the meeting shall be recorded and copies forwarded to all branches and the District Committee's office.

Sec. 4—Twenty-five full members in good standing shall constitute a quorum for any Division meeting held at Headquarters, and in ports outside of New York, where each Division maintains its own agency, fifteen shall constitute a quorum except as hereinafter provided.

Sec. 5—In those ports where the Union shall maintain joint agencies for the three Divisions, membership meetings shall be held once a week, and a quorum in those ports shall be twenty-five full

(Board's Exhibit No. 6—continued.)

members in good standing, provided at least five from each Division are present.

Sec. 6—No membership meeting, held either at Headquarters or in branches, whether the meeting be a Division meeting or a joint meeting, shall donate more than \$50 for any cause.

Sec. 7—Patrolmen shall be elected at membership meetings as hereinafter provided.

Sec. 8—All office and clerical help at Headquarters shall be employed by the Division Secretary-Treasurer with the approval of the membership at meetings.

Sec. 9—In those ports other than Headquarters, where agencies are maintained, Patrolmen shall be elected at membership meetings, and the office help shall be employed by the branch agent, all subject to the approval of the joint membership meetings.

Sec. 10—Any Division which disapproves of any action taken by the District Committee, may, upon a resolution adopted by a membership meeting request that the National Council inquire into and act upon the complaint filed by the Division against the action of the District Committee.

Sec. 11—Each Division may adopt such rules and regulations which affect the members of its Division. However, upon the written complaint of any other Division claiming to be affected by a rule and regulation adopted by another Division, the same shall be reviewed by the District Committee,

(Board's Exhibit No. 6—continued.)

and the decision of the District Committee shall be subject to the approval of joint meetings at Headquarters and Branches.

Sec. 12—Each Division shall record all of its financial transactions in a double entry set of books, and shall send to the District Committee's office not later than Tuesday in each week, a statement indicating the income and the expenditures of the preceding week. This statement shall be furnished on the form and in the manner provided by the District Committee and shall be published in the Pilot.

Sec. 13—Each Division and District office shall maintain a card index system, in which each card shall give the name, address, official number and amount paid by each member.

Sec. 14—Each Division shall forward to the District Committee 50% of all monies collected by it, in the form of dues, initiation fees, assessments or fines and the remaining 50% shall be used to defray the immediate and ultimate expenses of each Division; the District Committee, however, shall be the arbiter of the reasonableness of any expenditures made by the Division.

Sec. 15—Patrolmen shall be assigned to regular districts around the harbor. They shall visit the crews of all vessels in the Port; to collect dues; to carry the latest news of the Union to the crews on the ships; to enforce agreements with the employers; to advise and discuss with the members their grievances and the adjustment of the same when-

(Board's Exhibit No. 6—continued.)

ever possible. They shall turn over to the local officers in their respective Ports all monies collected within twenty-four (24) hours after receiving same. Patrolmen shall at all times carry out instructions issued to them by Division officers and also shall make daily reports of work done by them.

Sec. 16—The reports to be forwarded by joint agents shall be on forms prepared by the District Committee, and the rules and regulations adopted by the District Committee for the regulation of branch agents are to be strictly adhered to.

Sec. 17—The duties, responsibilities and obligations of joint agents shall be the same as those of branch Division agents.

Conventions

Article IX

Section 1—The National Maritime Union of America shall meet biennially in general Convention on the first Monday in July in the city designated by the previous Convention.

Sec. 2—Should no Convention be held for a period of twenty-five months after the last Convention, the salaries of the National officers shall be withheld and none paid to them until the Convention will have met.

Sec. 3—Representation from ships and shore at the biennial Convention shall be upon the following basis:

(Board's Exhibit No. 6—continued.)

(a) Each District Division of the National Maritime Union of America at Headquarters shall be entitled to one Delegate for every 200 paid up members or fraction thereof, and Divisions of the Union with a membership of more than 200, but not more than 500 shall be entitled to two (2) delegates.

(b) Divisions with a membership of more than 500 but not more than 1,000 shall be entitled to four (4) delegates.

(c) Divisions of the Union with a membership of more than 5,000 but not more than 11,000 shall be entitled to eight (8) delegates for the first 5,000 and one (1) delegate for each additional 2,000 members or portion thereof.

(d) The Divisions of the Union with a membership of more than 11,000 shall be entitled to eleven (11) delegates for the first 11,000 members and one (1) delegate for each additional 5,000 members or portion thereof.

(e) The number of members above mentioned shall be computed upon the basis of the average number of members in good standing in the Division of the Union during the last six (6) months preceding the month in which the call of the Convention is issued.

Sec. 4—The delegates elected to attend all National Conventions of the National Maritime Union of America, or conventions of any National or International Federation with which the National Maritime Union of America may become affiliated in

(Board's Exhibit No. 6—continued.)

the future, may be instructed on specific questions by resolutions made and adopted at joint membership meetings held at each District Headquarters prior to the holding of any Convention. When delegates accredited to any convention are instructed to vote in a specific manner on specific questions, the entire delegation shall vote as a unit, in accordance with the instructions given to them. On questions upon which they do not receive specific instructions they shall vote as a unit in the manner decided by a two-thirds vote of the delegation. The delegates to any National Convention of the National Maritime Union of America or any Convention of a National or International Federation, shall render a report to a joint membership meeting held at the District headquarters in each District, as well as a report to the next succeeding biennial Convention.

Delegates to the Convention from Ships

Sec. 5—Delegates from and to represent ships' crews shall be elected at a joint meeting of the members of the Union aboard ship.

Representation of ships crews shall be on the following basis:

(a) Ships with less than 100 registered crew shall be entitled to send one (1) delegate with one (1) vote.

(b) Ships with a registered crew of 101 and less than 300 members shall be entitled to send two (2) delegates with one (1) vote each, or one (1) delegate with two (2) votes.

(Board's Exhibit No. 6—continued.)

(c) Ships with a registered crew of 301 and less than 600 members shall be entitled to send three (3) delegates with one (1) vote each, or one (1) delegate with three (3) votes.

(d) Ships with a registered crew of 601 and less than 1,000 members shall be entitled to send four (4) delegates with one (1) vote each or one (1) delegate with four (4) votes.

(e) Provided, however, that no man may be seated at the Convention as a delegate from a ship unless he was a member of the crew of that ship at the time he was elected, and provided further, that no delegate to the Convention from a ship shall be nominated and/or elected more than sixty (60) days prior to the opening of the Convention, and shall have in his possession for the inspection of the Credentials Committee a copy of the minutes of the Joint Ship's meeting at which he was so elected, and signed by the Ship's Committee; and provided further that the crew of the ship he is to represent shall pay his expenses and maintenance for the duration of the Convention.

Sec. 6—Delegates shall present to the Credentials Committee of the Convention their credentials signed by the Secretary of the Division of the Union, and also their Union books showing the payment of all dues and assessments.

Sec. 7—The Credentials Committee shall report its findings to the Convention and the Convention shall have the power to pass upon the qualifications

(Board's Exhibit No. 6—continued.)

and eligibility of delegates and their right to a seat in the Convention.

Sec. 8—Each Division at Headquarters shall mail a duplicate of the credentials of each delegate to the National Secretary at least two weeks prior to the holding of the Convention.

Sec. 9—The expenses of Delegates to the Convention shall be paid by the Division represented by them.

Sec. 10—The proceedings of the Convention shall be governed by this Constitution and Roberts Rules of Order (Revised) in instances where no specific provision is set forth, the rules adopted at the preceding Convention shall be in force from the opening of any Convention until new rules shall have been adopted by the Convention itself. Each Convention may adopt rules for the conduct of its business not in conflict with the provisions of this Section.

Sec. 11—A quorum for the transaction of business at a Convention shall consist of two-thirds of the Delegates accredited to the Convention.

Sec. 12—The following order of business shall prevail at each Convention unless suspended by a two-thirds ($2/3$) vote of the Delegates present and voting, a quorum being present:

- (1) Call to order by President.
- (2) Election and report of Credentials Committee.
- (3) Roll Call.

(Board's Exhibit No. 6—continued.)

(4) Report of the National officers.

(5) Election of the following committees: Press, Resolution, Law, Reports of officers and members of the National Council, hereinabove set forth in Article V entitled "Powers and Duties of the National Council."

(6) Appeals by Divisions or members of Divisions from decisions made by the National Council during the year immediately preceding the holding of the Convention, in any way interfering with the rights granted herein to Divisions and members of Divisions.

(7) Reports of Divisions.

(8) Reports of Committees.

(9) Unfinished Business.

(10) New Business.

(11) Election of Delegates to Convention of the Committee for Industrial Organization or other National organizations with which the National Maritime Union is affiliated.

(12) Good and Welfare.

(13) Adjournment.

Sec. 13—None other than members of bona fide Trade Unions or those identified with the Labor movement shall be permitted to address the Convention or to read papers therein, except by a two-thirds vote of the Delegates present and voting, a quorum being present.

(Board's Exhibit No. 6—continued.)

Qualifications of National Officers

Article X

Section 1—The National Officers shall consist of National President, National Vice-President, National Secretary-Treasurer, the District Officers of each District and the Secretary-Treasurer for each Division at headquarters.

Sec. 2—The District Officers of each District shall consist of the District Chairman, District Secretary and District Treasurer, provided that no more than one of the latter shall be elected from any one Division.

Sec. 3—Any member in good standing in the organization, who is a citizen of the United States or who has legally declared his intention of becoming a citizen of the United States, shall be eligible to hold office in the NMU of A, if employed in the shipping and marine transportation industry, or officially connected with the organization, and who has never been found guilty of misappropriating any trust funds and has been a member of the NMU of A, or of any other maritime organization from which the said member transferred for membership in the NMU of A, except as hereinafter provided.

Sec. 4—Members eligible for any National, District or Division office shall be members of the NMU in good standing for at least one year, unless nominees should belong to a Division that is affiliated with the NMU less than one year, in which

(Board's Exhibit No. 6—continued.)

event he shall have been a member of the Maritime Union from which he was transferred for one year.

Sec. 5—Any member in good standing in the organization for one year who is a citizen of the United States or who has legally filed his intention to become a citizen of the United States, shall be eligible to hold office in the NMU, provided:

(1) He shall show proof of three full years service in his division of the marine transportation industry.

(2) He shall not have been ashore for a longer time than the six months immediately preceding his nomination.

(3) That rule No. 2 shall not be applicable to members now holding office nor to any member who was an official of any other bona fide Maritime Union prior to becoming a member of the National Maritime Union, nor shall Rule No. 2 be applicable to any member who can show to the satisfaction of District Headquarters' joint meeting that he could not comply with Rule No. 2 due to Rank and File activities.

Nomination of National Officers, Division Branch
Agents and Joint Agents

Article XI

Section 1—(a) Biennially during the month of September at joint membership meetings held at headquarters and at branches there shall be nomi-

(Board's Exhibit No. 6—continued.)

nated candidates for all national offices. Each nominee, before his name shall be placed upon the ballot must first secure the written endorsement of 25 members in good standing.

(b) District officers, Branch Agents and Joint Branch Agents and Patrolmen shall be nominated yearly as provided in (a) above.

Sec. 2—All nominations must be recorded in the minutes of headquarters or branches where made, and the nominations properly endorsed, and the written acceptance of the nominee must be forwarded to the District Secretary by registered mail and must be in his hands not later than the 7th day of October.

Election of National Officers

Article XII

Section 1—Ballots shall be prepared by the National Secretary in the form prescribed by the National Council. These ballots shall be immediately forwarded to each District Committee and balloting shall take place in the manner hereinafter provided.

Sec. 2—During the second week in October at Headquarters and Branches in each District there shall be held joint meetings of all Divisions at which meetings one member from each Division should be elected to a Balloting Committee, to function in the port in which he was elected. This Committee shall meet at the District Committee or Branch

(Board's Exhibit No. 6—continued.)

offices immediately after their election, and it shall be the duty of this Balloting Committee to determine the eligibility of each nomination made and to prepare the ballots in conformity with rules as set forth by the National Council and one representative for each District Balloting Committee.

Sec. 3—Any member who is running for re-election shall have indicated alongside his name on the ballot the number of terms of office he has held.

Sec. 4—All ballots shall be forwarded to each Division and Branch maintained by each Division, as well as those ports that have joint agencies, in sufficient numbers to supply each member not later than two weeks prior to the date of the election.

Sec. 5—In addition to the candidates for various offices, the ballots may also contain any amendments to the Constitution or By-Laws that have been regularly offered, in accordance with Articles XXIII and XXV.

Sec. 6—During the election every member entitled to vote shall apply to the duly elected Balloting Committee for a ballot at headquarters and branches, whereupon he shall be given a ballot, and envelope numbered similarly to the ballot, and second envelope self-stamped and addressed to a safety box in a bank at District Headquarters previously provided. After marking the ballot to his own satisfaction he shall enclose his ballot in the first numbered envelope, then enclose this envelope in the second self-addressed envelope and then seal said

(Board's Exhibit No. 6—continued.)

second envelope and mail it in the nearest United States mail box.

Sec. 7—Each member, before he receives his ballot, shall sign his name and membership number in a bound book, kept for that purpose. If he is unable to write, he shall mark a cross in that book and his name and number may then be written by the officer in charge of the Division. After he has voted, his membership book shall be stamped to indicate that he has voted, giving the date and the place where the vote was cast.

Sec. 8—Ballots shall be secret and each ballot marked in ink.

Sec. 9—Within 24 hours after the balloting shall have been completed in each Branch the Balloting Committee shall immediately forward to the District Headquarters all ballots unused and voided, as well as a photostatic copy of the list of members who voted and signed the bound book kept at headquarters and each Branch.

Sec. 10—At the second meeting held in December or a special meeting held no later than the 24th of December of each year, at Division Headquarters there shall be elected three members for each Division to serve as Judges of Election.

Sec. 11—All members elected to act as Judges of Election shall meet no later than the 5th of February of the same year, and shall immediately proceed to the safe deposit vault and deliver the

(Board's Exhibit No. 6—continued.)

ballots to District Headquarters where they shall be counted by the Judges of Election.

Sec. 12—Balloting shall be conducted upon the premises occupied by each Division, except in the Ports where the Union maintains a joint agency, and in those ports on the premises occupied by the joint agency, except as hereafter provided.

Sec. 13—At District Headquarters the Judges of Election shall open the ballots, one at a time; count the number of ballots cast and see whether the number of ballots cast tally with the number of members who have voted as shown on the photostatic copies of voting lists forwarded from each port.

Sec. 14—The Judges of Election shall then count the number of ballots cast for each candidate whose name appears thereon, and also the number of ballots cast in favor of or against any amendment or proposition; count the unused ballots and announce the results of the votes cast for each, at the first meeting at headquarters held by each Division, and at the same time communicating the results of the election to the branches. Any candidate shall be permitted at all times to be present while ballots are being counted.

Sec. 15—Immediately after the Judges of Election have reported, they shall deliver to the National Secretary-Treasurer all of the ballots, photostatic copies of voting lists and any comment of Judges of Election, in the form of sealed packages. The National Secretary-Treasurer shall deposit the sealed

(Board's Exhibit No. 6—continued.)

packages in a safe deposit vault and keep them until the next general election, subject to a recount ordered by the Union. A recount shall be ordered when the membership joint meetings at Headquarters and Branches of at least two Districts adopt resolutions to that effect.

Election of Division Branch Agents and Joint Branch Agents

Article XIII

Section 1—Balloting for the election of District Officers, Division Branch Agents and Joint Branch Agents shall conform with the provisions for the election of National officers, except that they shall be held annually.

Sec. 2—Patrolmen to be nominated at the same time as regular officers and their names placed on a special port ballot provided for that purpose and the balloting to be conducted as provided for by the District elections. At the termination of the Balloting, the Balloting Committee of each port shall constitute the Judges for the election of Patrolmen, and to count the ballots cast and report to the membership for their ratification.

Duties of National Officers

Article XIV

President

Section 1—The President may preside over all National Conventions and meetings of the National

(Board's Exhibit No. 6—continued.)

Council and sign all bills and official documents after the National Secretary certifies their correctness.

Sec. 2—He may appoint a member of the Union, whose duty shall be to collect and compile statistics in any way affecting the shipping and marine transportation industry, and any other matter that may be of benefit to the organization. Said statistician upon employment must receive the endorsement of a majority of the members of the National Council.

Sec. 3—He may employ when so instructed by the National Council, such organizers and field workers as may be necessary to conduct the affairs of the National Maritime Union of America, such employment must be endorsed by the National Council subject to ratification by membership meetings at Headquarters and Branches of at least two Districts.

Sec. 4—He may visit in person any District office, or Branch of any District, if, in his judgment, such visit will be of benefit to the National Maritime Union of America.

Sec. 5—He shall employ, subject to the approval of the National Council, one or more competent traveling auditors who must be certified public accountants.

Sec. 6—He shall devote all his time to the affairs of the organization, executing the instructions of the National Council and exercising general super-

(Board's Exhibit No. 6—continued.)

vision over the office work of the National Maritime Union of America.

Vice-President

Sec. 7—The Vice-President shall assist the President in the performance of duties vested by this Constitution in the President, whenever in the opinion of a majority of the National Council, the President is unable to adequately and properly perform his duties, whether by reason of illness, absence from the National office or otherwise; and in the event the presidency is vacated by resignation, or death, or removal from office, he shall succeed to the position. He shall also perform any duties assigned to him by the National Council.

Secretary-Treasurer

Sec. 8—The Secretary-Treasurer shall have charge of and preserve all books, documents and effects of the National Office. The seal shall remain in the form and design heretofore used, or which may hereafter be adopted, which shall be retained by the Secretary-Treasurer in trust for the use of the membership in their organization affairs; and he shall prosecute any and all proceedings proper to prevent the wrongful use or the imitation of the seal or the name of the organization.

Sec. 9—He shall record or cause to be recorded the proceedings of all National Conventions, as well as of meetings of the National Council, and shall

(Board's Exhibit No. 6—continued.)

immediately after the adjournment of the Convention, or the adjournment of any regular or special meeting of the National Council, forward an accurate copy of all of the minutes and resolutions adopted by the convention and the National Council to each District Headquarters and Branches.

Sec. 10—He shall receive and receipt for all monies due the National Maritime Union of America, pay all bills and current expenses if less than \$500 in amount; all other bills to be paid when ordered by the National Council. He shall keep copies of all correspondence sent out and received by his office.

Sec. 11—He shall submit at each quarter-annual meeting of the National Council, a statement showing the salary and expenses of each officer and employee and also detail the receipts and disbursements of all monies by the National office. The receipts from each District shall be compiled separately and totaled. Copies of all statements and reports submitted to the meetings of the National Council shall be forwarded to each District, Headquarters and Branches.

Sec. 12—He shall order and keep in his possession all check books; see that they are consecutively numbered and in proper form, and issue all checks as they are required, taking a receipt for the same; he shall keep on hand a sum not exceeding \$1,000 for the purpose of paying such warrants and orders as are properly ordered in accordance with the pro-

(Board's Exhibit No. 6—continued.)

visions of this Constitution; he shall deposit in such bank or banks as the National Council may from time to time designate, any and all sums above the amount mentioned; he shall pay all warrants and orders properly authorized in accordance with the provisions of this Constitution; he shall keep the bank books in his possession, and shall produce the same as well as the cash on hand at all regular or special meetings of the National Council for the inspection of the members; he shall be present at all regular meetings of the Council; he shall prepare at the end of each month a full report of all monies received; put in bank and paid out on warrants and orders. He shall receive and keep on file copies of all minutes and financial reports issued by him; he shall file satisfactory bonds in the amount of \$10,000 or any larger sum as may at any time be ordered by the National Council; when authorized by a two-thirds vote of the National Council; he shall retain the service of as many auditors or accountants as shall be necessary to audit the books and accounts maintained at the National office or any District office.

Sec. 13—The President, Vice-President, and Secretary-Treasurer shall prepare a joint report which shall be signed by each and rendered to the regular National Convention.

Sec. 14—The President, Vice-President and Secretary-Treasurer shall have their report prepared,

(Board's Exhibit No. 6—continued.)

printed and ready for distribution on the first day the Convention convenes.

Salaries of Officers

Article XV

Section 1—President, \$75.00 per week; Vice-President, \$65.00 per week; Secretary-Treasurer, \$75.00 per week. These salaries shall be subject to increase at the discretion of the membership, and this shall apply to all salaries of all officers.

Editor of Official Journal: Wages to be set by the National Council subject to the ratification of the membership.

Delegates to the C.I.O. or any other Convention when employed, \$6.00 per day.

Sec. 2—Each of the above mentioned officers delegates and editors shall receive in addition to their salaries, all actual railroad fares and subsistence at the rate of \$5.00 per day, when employed by the National Maritime Union of America away from their places of residence.

Sec. 3—During all general strike periods called by the membership of the NMU, the salaries of all officers automatically shall cease to be paid until the period of the general strike is over.

Sec. 4—The National Council shall fix the salary of the Washington legislative representative subject to the approval of the membership.

Sec. 5—All officials of the NMU shall be given two weeks vacation with pay yearly providing that

(Board's Exhibit No. 6—continued.)

no two National, District or Branch officials shall be absent at the same time.

Duties of District Officers

Article XVI

Chairman

Section 1—It shall be the duty of the Chairman to preside over the meetings of the District Committee and enforce due observance on the part of all members in the District of the Constitution and By-Laws. He shall, in case of a tie, give the deciding vote. He shall sign the Secretary's financial report to certify that it has been approved by the meeting of the District Committee. He shall call special meetings of the District Committee, when requested in writing by two members of the District Committee, no more than one of whom shall be members of any one Division. He shall attend at least one meeting of each Division during each month and make such recommendations to the District Committee, which, to him, may seem proper for the better conduct of the affairs of the Union or of any Division thereof.

Secretary

Sec. 2—The District Secretary shall keep an accurate record of all regular and special meetings. He shall keep a correct list of members, for the District Committee and the Division affiliated with

(Board's Exhibit No. 6—continued.)

the District, as well as for Headquarters and the various Branches. He shall receive and record weekly reports from Division Secretaries and branches and immediately bring to the attention of the District Committee any default on the part of any Division Secretary or Branch Agents for action by the District Committee. He shall prepare and present for the consideration of the District Committee all forms to be used by the Union, the Divisions and Branches thereof, and to record all financial transactions of such Divisions and Branches. He shall maintain at all times a complete record of special and regular minutes of meetings of the District Committee, Divisions, National Council and all Branches.

Sec. 3—He shall, subject to the approval of the District Committee, employ such clerical staff as may become necessary to properly maintain the records of the District Committee. The District Committee office shall be kept open every day during the week, except Saturdays after 1:00 P. M., Sundays and Holidays observed by the Union, and all of the records shall be made available for the inspection of any member of the District.

Sec. 4—He shall once a week, or any time required by the Treasurer, pay over to the said Treasurer all monies on hand exceeding three hundred dollars (\$300.) which amount he shall keep on hand for the purpose of defraying such running expenses as may be incurred in the office. He shall submit

(Board's Exhibit No. 6—continued.)

his books for the inspection of the Treasurer once a week, or at any time the Treasurer demands it. He shall receive each month a report from the Treasurer, and shall verify the same by looking over the report from the Treasurer's books. He shall enter said report properly on the books, and keep said report on file. He shall prepare weekly and quarterly balance sheets, and send copies of same and also the records of each meeting, to all the Branches and the Treasurer. He shall issue notices of special meetings when he is notified in writing by three members of District Committee that a special meeting is demanded. He shall bring before the regular or special meetings such complaints as may have been made by members during the intervening regular meetings, and also give a report of the general situation at each regular meeting. He shall keep the seal of the Union, affecting his District, in his possession, and shall attend to all correspondence retaining copies of all letters written by him as Secretary. He shall attend to other office work not here enumerated, and to such other duties as the District Committee from time to time designates. He shall represent the Union on all occasions where representation is required and not otherwise provided for in the Constitution. He shall be the executive officer and shall file satisfactory bonds of not less than \$10,000 to be furnished by a reliable surety company, premium on which bonds to be paid for by the District Committee.

(Board's Exhibit No. 6—continued.)

Treasurer

Sec. 5—The District Treasurer shall receive and receipt for all funds given him by the Secretary. He shall keep on hand a sum not exceeding \$300 and deposit all other sums in a bank or banks to be designated by the District Committee. He shall deposit in such bank or banks all monies above the aforesaid limit. He shall pay all bills immediately upon being authorized by the District Committee. He shall keep the bank book in his possession and shall produce the same as well as cash on hand when called upon to do so. He shall once a month furnish the Secretary a full report of all monies received, put in bank and paid out on orders. He shall look over the Secretary's books to satisfy himself that all money received is turned over to him. He shall further submit his own books for the inspection of the Secretary. He shall receive and keep on file copies of all minutes and financial reports issued by the Secretary. He shall file satisfactory bonds of not less than \$10,000 to be furnished by a reliable surety company, premium on which bonds to be paid for by the District Committee.

Division Secretary-Treasurer at Headquarters

Sec. 6—The Division Secretary-Treasurer shall be the Executive officer of the Division and shall be present at each meeting of the Division. He shall present a weekly report and read any and all communications addressed to the Division by either the

(Board's Exhibit No. 6—continued.)

National Officers, National Council, District Officers or District Committees. He shall keep an accurate record of all regular and special meetings. He shall keep a correct list of members in his Division. He shall receive all fees and dues from members, either directly or through patrolmen, as collected on their boats. For all money thus received he shall give proper receipts. He shall keep on hand and distribute receipt books to agents and patrolmen as required. He shall, once a week, or at any other time required by the District Treasurer, pay over to the District Secretary 50% of all monies collected by him, directly or indirectly, and out of the balance shall pay his salary and the salary of any patrolmen and necessary clerical help. He shall fill out any and all forms sent to him by the District Secretary and shall supplement these reports insofar as they fail to furnish a complete record of all transactions, and he shall forward copies, of the same to the District Secretary each week. He shall enter said reports properly on the books and keep same on file. He shall prepare weekly balance sheets and send copies of same and also the records of all meetings to the District Secretary and attend to all correspondence, making copies of all letters written by him as Division Secretary-Treasurer. He shall perform any other duties affecting his division and which are assigned to him by the District Committee.

(Board's Exhibit No. 6—continued.)

Division Branch Agents

Sec. 7—Each Branch Agent shall be the executive officer of the Division of the Union in his respective locality. He shall keep a record of the proceedings of all regular and special meetings of the branch, and shall forward copies thereof to the District Committee. He shall be empowered to receive money due the Union from members and initiation fees from applicants for membership, either directly or through any patrolman elected by the Division membership in that branch. He shall prepare weekly financial reports showing in detail the income and expense and forward copies thereof to headquarters, together with duplicates of receipts for income and original vouchers for expenditures. He shall at the end of each week remit to the District Secretary any money on hand in excess of \$100 after the current expenses for the week have been met. Any failure to comply with the two foregoing provisions or to furnish a satisfactory explanation to the District Committee may be considered equivalent to a resignation. He shall at all times conform to the rules governing the financial affairs of the Union prescribed in this Constitution. He shall furnish a surety bond in the sum of \$500, the premium to be paid for by the Union. He shall fill all orders for crews in conformity with regulations prescribed by the branches. All branches shall at all times with the assistance of the District Committee adopt rules affecting the branches.

(Board's Exhibit No. 6—continued.)

Section 8—All obligations and duties set forth in the Section immediately preceding shall be performed by each branch agent, except that the joint agent shall prepare separate reports for each Division and shall forward each report to the Secretary of the District Committee.

Sec. 9—For the next three years all nominees for official positions shall have clear strike records.

Salaries

Sec. 10—The salaries of the respective officers shall be as follows:

District Chairman	\$60 per week
District Secretary	\$60 per week
District Treasurer	\$60 per week
Division Secretary-Treasurer	\$60 per week
Patrolmen	\$40 and \$5 for expenses
Division Branch Agents.....	\$50 and \$5 for expenses
Joint Branch Agents.....	\$50 and \$5 for expenses

Sec. 11—Each of the above mentioned officers excepting the Patrolmen and Branch Agents shall be paid their actual travel expenses and \$5 per day when away from their respective headquarters.

Rights, Powers, Obligations, Duties and Benefits of the Membership

Article XVII

Section 1—Candidates for membership shall be all workers now engaged in the shipping and marine

(Board's Exhibit No. 6—continued.)

transportation industry or intending to be employed in the shipping and marine transportation industry, subject to rules and regulations of the NMU.

Sec. 2—All candidates for membership shall make application for membership in accordance with the form provided by the National Council and/or the respective District Committees, and the District Committees shall have power to refuse admission to any candidate provided that no person shall be excluded from membership by reason of race, color, religious belief, sex and/or political affiliation.

Sec. 2—(a) All candidates must appear before a membership committee and a book issued to him or her, if he or she meets the condition for admission previously promulgated. Requirements at all times to be agreed upon by the membership.

Obligations of Membership

Sec. 3—Initiation Fee, Membership Dues and Exemption of Dues: (a) The initiation fee for membership in the National Maritime Union of America to be paid by persons seeking membership shall not be less than \$10, except as hereinafter provided.

(b) Each member shall pay as dues \$1.00 per month.

(c) Any member more than three months in arrears in the payment of dues shall be ineligible to vote at any meetings which he may attend, and shall be suspended as a member if in arrears for more than six months. Members who are in good

(Board's Exhibit No. 6—continued.)

standing at the time of the vessel's departure from the last port where an office of the Union is located shall be deemed in good standing until the end of the voyage upon which they were originally engaged, or until return to a port within the jurisdiction of the Union, whichever first happens.

(d) Members shall be exempt from the payment of dues in case of sickness or unemployment, upon presenting ample evidence that sickness or unemployment prevented him from paying his dues. However, upon regaining employment, he must pay all back dues.

Sec. 4—Each member, in addition to the initiation fee and the monthly dues shall be subject to a yearly assessment of no more than \$10 to meet all of the obligations of the Union for the benefits enumerated in Article XVIII as well as any strike needs, provided, however, that \$1 yearly be allocated to the support of the Pilot.

Probationary Members

Sec. 5—Members upon joining the Union shall receive membership books and shall be considered probationary members for a period of six months, at which time they shall be admitted to full membership. Probationary members, however, shall have voice but no vote.

Sec. 6—A full member in good standing shall be one in the Union more than six months and not in arrears in the payment of dues or assessments for more than three months.

(Board's Exhibit No. 6—continued.)

Eligibility to Vote

Sec. 7—Every full member in good standing during the balloting at annual or biennial elections shall be qualified to cast a ballot.

Membership Books

Sec. 8—(a) The membership book shall at all times remain the property of the National Maritime Union of America.

(b) Any member losing a membership book, other than by shipwreck or fire, shall, upon payment of fifty (50) cents, have issued to him a new membership book.

(c) Any probationary or full member shall, on demand, by an official or duly elected representative of the Union, produce his book of membership in the Union.

Exchange of Membership

Sec. 9—Any member of any other bona fide union whose membership is now engaged, directly or indirectly, in the shipping and marine transportation industry, may exchange his membership book for that of a membership book of the National Maritime Union of America, provided he is a fully paid up member of his Union. However, should any book presented for such exchange indicate that the member was in arrears in the payment of his dues, then, before the issuance of a membership book of the

(Board's Exhibit No. 6—continued.)

National Maritime Union of America, the said member shall agree to pay to the NMU of A an assessment in an amount equal to his arrears in the Union from which he seeks to be transferred.

Sec. 10—Every member who is three months or more in arrears in his dues and assessments to the Union shall not be entitled to any benefit or take part in, nor vote in any business of the Union until after he has cleared up his book. Every member who is six months in arrears shall be struck off the list of members unless the reason for failing to pay satisfies the District Committee that his failure was unavoidable.

Duties of Members

Sec. 11—(a) It shall be the duty of each member to be true and loyal to the union and the labor cause, and to endeavor to put into practice the principles laid down in the preamble; and they shall yield strict obedience to such rules as the Union may see fit to adopt.

(b) It shall be the further duty of every member to uphold and advocate the objects of bona fide labor organizations, and to buy only Union-made goods where such are obtainable.

(c) It shall be the duty of every member to attend special and general meetings provided for in this Constitution, and when at sea, to attend all meetings called by ships' committees.

(Board's Exhibit No. 6—continued.)

(d) Every member shall be deemed to possess a copy of these rules, and ignorance of the rules on the part of any member shall not be set up as an excuse for breach of any rule. Every member shall be subject to such fines and penalties as shall be hereinafter set forth, for the breach of any of these rules.

Retirement from Membership

Section 12 (a)—Members working in another industry for a period of more than three months or intending to abandon the shipping or marine transportation industry shall retire from active membership in the Union and shall be granted a retiring card upon payment of all back dues, assessments and fines or other indebtedness to the Union, including dues for the current month; provided further that he shall not retain membership in one division while working in another.

(b) Members holding retirement cards shall surrender all rights and privileges of membership during the period of retirement, but shall be restored to active membership by depositing their retirement cards and making payment as hereinafter provided.

(c) Members who have been retired for a period of six months or longer shall be restored to good standing upon the payment of dues for the current month during which they seek reinstatement.

(Board's Exhibit No. 6—continued.)

Benefits of Membership

Article XVIII.

Section 1—Every probationary and full member of this Union shall be entitled to the following benefits:

(a) Shipping Benefits: All shipping done through the Union hall shall be on a rotary shipping system and no member of the Union shall be disqualified from shipping benefits; the said rotary shipping rules to be formulated by each District.

(b) Funeral Allowance: In the event of the death of a member, his nearest relative or any person duly designated by him in the manner provided shall receive the sum of \$125.00, provided that the deceased member was not in arrears with his dues and assessments as previously set forth, and that he had been a member of the Union for one year.

(c) Shipwreck Benefits: If a member is shipwrecked or loses his clothes by fire or other disaster on board ship, and can submit proof of the same to the District Committee, and is not in arrears with his dues and assessments, as previously set forth, at the time of the shipwreck or loss of clothes, he shall be entitled to a shipwreck benefit not exceeding \$100.

(d) Hospital Benefits: Every member in good standing shall be entitled to \$1.00 per week, (1) while a patient in any U. S. Marine Hospital and

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(2) while a patient in any institution for the sick.

(e) Prison Benefits: Any member of the Union who shall serve a prison sentence arising out of any Union activity shall be paid not more and not less than \$5.00 each week.

General Strike

Article XIX.

Section 1—The National Council shall have power, between conventions, by a two-thirds (2/3) vote, to recommend the calling of a general strike, but under no circumstances shall it call such a strike until approved by a referendum vote of the membership, except in the instances of strikes specifically hereinafter provided.

Sec. 2—The National Council shall, in the form of a resolution, set forth the purpose of the Union in declaring a strike, stating the date upon which the strike shall be called, and such other particulars as may be necessary for the full information of the membership.

Sec. 3—A referendum vote on strike resolutions shall be held as provided in Article XXIII of this Constitution, except that period for conducting such a referendum shall be no more than one month.

Sec. 4—If a general strike is called by a National Federation or Association with which the National Maritime Union of America shall become affiliated, a strike call may be recommended in the

(Board's Exhibit No. 6—continued.)

form of a resolution by a two-thirds ($2/3$) vote of the National Council. This resolution must be endorsed by special meetings called for that purpose by a majority of the Districts, and the results of said meetings wired to the National Council.

Sec. 5—A strike involving the failure of a master of a vessel to comply with rules and regulations previously agreed to with the officers of the Company owning or operating the vessel, may be called by a Branch agent, provided however, that such strike call is approved by a special joint membership meeting called at the Branch.

Sec. 6—When any difficulty affecting the membership of the Union in any branch arises, the agent or agents of the branch involved shall call a special joint meeting, and such meeting shall have the power to adopt such temporary strike measures as the circumstances shall require. Such rules, however, shall only affect the branch in question, and shall give way to any rule that may be adopted by the District Committee on any of the questions that are involved in the branch in question.

Sec. 7—No less than ten per cent of all monies collected by the District Committee shall be deposited every month in a special fund to be designated as "District Strike Fund," and to be withdrawn only in the event of a strike being called in the District, and affecting the entire District. This fund shall be subject to the withdrawal upon the signa-

(Board's Exhibit No. 6—continued.)

ture of three District officers and shall be used only for such District strike purposes.

Sec. 8—In the event that a nation-wide strike is called, all strike committees elected in each District shall forward proposals to the National Council affecting the general management of the strike. The National Council shall co-ordinate all rules and regulations for the conduct of the strike and each District shall contribute such sums from its strike fund as the National Council shall direct.

Sec. 9—Immediately upon the adoption of a resolution calling a strike, either involving a District or all members of the Union, joint membership meetings shall be held at Headquarters maintained by each District. A Strike Committee, consisting of no less than 18 members shall be elected in each District. The joint membership meetings at Headquarters shall elect from among the members present 15 members of the Committee, and the National Council from among its members shall elect three members, provided, however, that each Division shall be represented by at least one member on the Committee.

Sec. 10—Each Branch, immediately upon the declaration of a District- or nation-wide strike, shall call special meetings for the purpose of electing strike committees for each branch.

Sec. 11—Each Branch shall elect a committee of not less than five, provided, however, that each Divi-

(Board's Exhibit No. 6—continued.)

sion is represented on the Strike Committee. Branch Strike Committees, however, must at all times be guided by the general policy adopted by the Strike Committees elected at District Headquarters.

Sec. 12—Each Strike Committee elected at Branches and Headquarters shall make weekly financial reports and also forward the minutes of all membership meetings called by the Branch or Headquarters District Committee to the National Council.

Sec. 13—Before a strike shall be declared off, special joint meetings shall be called simultaneously in all divisions at headquarters and all Branches affected by the strike, for that purpose, and it shall require a majority vote of all members present to decide the question either way.

Suspension, Recall and Vacancies

Article XX.

Section 1—The following National officers, to wit, the National President, National Vice-President, and National Secretary-Treasurer, or any other National officers that may at any time be provided, shall be suspended by the National Council when the District Committees of two Districts, by a majority vote taken within a period of one month, recommend such suspension to the National Council.

Sec. 2—Upon receipt of such recommendation from two Districts, the National Council shall, within no more than two weeks thereafter, order the holding of joint membership meetings at Head-

(Board's Exhibit No. 6—continued.)

quarters of each District. At these joint District meetings, the formal charges upon which the complaining Districts base their suspension shall be read and at these District meetings a Trial Committee of six shall be elected which shall be presided over by a member of the National Council, designated by the Council.

Sec. 3—The District Committee shall thereafter at the end of two weeks call other special meetings at which time the Trial Committee will report and submit their findings for approval or rejection. If the charges are sustained by a majority vote at Headquarters and Branches of at least two of the Districts, the officers on charges shall stand suspended. If the charges are rejected, the suspended officer shall be restored to his office and all salaries withheld during the period of suspension shall be paid to him.

Sec. 4—Any National President, National Vice-President or National Secretary-Treasurer who shall have been suspended as provided above may appeal to the next National Convention.

Sec. 5—If a vacancy is created by this suspension, it shall be filled by a referendum vote provided for in Article XII. In the meantime, the duties formerly performed by the suspended officer shall be performed by any member of the District Committee whom the National Council shall designate.

(Board's Exhibit No. 6—continued.)

Sec. 6—Any District officer may be suspended upon a resolution adopted by any joint membership meeting held at the Headquarters of its District. Any Branch Agent may be suspended by any joint meeting held in any Branch maintained by the Union. All members in good standing shall be eligible to vote at these meetings. The quorum for the suspension of a District officer at Headquarters shall be 100, and the quorum for the suspension of a Branch Agent shall be 50.

Sec. 7—The Division demanding the suspension of a District officer shall present formal written charges upon which it bases its demand for such suspension. At the meeting immediately following the suspension of a District officer, a special joint meeting of all Divisions shall be called at Headquarters at which meeting the charges will be read; a trial committee of five shall be elected. This committee shall meet during the week immediately following the special meeting to hear any and all members or other persons who desire to be heard upon the charges preferred against the District officer. Another special joint meeting shall be called two weeks after the officer has been suspended, at which meeting the Trial Committee shall report, and if the report of the Trial Committee is adopted by a majority vote of the full members in good standing, the officer shall stand suspended. If the report of the Trial Committee recommending suspension is adopted the joint meeting shall imme-

(Board's Exhibit No. 6—continued.)

diately nominate members to fill the vacancy. The report of the Trial Committee shall be sent to all Branches, and in a special meeting called for that purpose shall also nominate members to fill the vacancy. The Branches shall forward to the district Committee all names of nominees. The District Committee shall compile the list of nominees and forward same to the Branches. At the next succeeding meeting a secret ballot shall be cast at headquarters and branches. The result of this ballot shall be forwarded to the District Committee. The man receiving the highest number of votes shall be declared elected.

Sec. 8—All vacancies occurring by death, recall, resignation or retirement between elections shall be filled as provided in Section 7 above.

Section 9—The Division Secretary-Treasurer shall be suspended upon the presentation of formal charges to any regular meeting of the Division at Headquarters, at which a quorum shall consist of 100 members. Formal written charges shall be filed with the Chairman of this meeting. At the first regular meeting after the formal charges are filed, the charges shall be read, and a trial committee immediately elected by the membership at the meeting. The Trial Committee of five shall announce at the meeting the time and place where they will hear persons who desire to be heard upon the charges filed. At the next succeeding regular meeting the Trial Committee shall report, and the membership

(Board's Exhibit No. 6—continued.)

shall either adopt or reject the report of the Trial Committee. If the recommendation that the member remain suspended is adopted, then the vacancy shall be filled as provided in Section 7 above.

Sec. 10—Branch Agents, whether they be Division Branch Agents or Joint Branch Agents, shall be suspended by membership meetings at Branches in the same manner in which the Division Secretary-Treasurer shall be tried and suspended. A quorum at such meetings shall consist of 50 members.

Trials

Article XXI.

Section 1—Any charge of violating the laws and rules of the Union made against any member must be submitted in writing to a regular meeting. Thereupon a Trial Committee of five full members shall be elected to which said charges shall be referred without discussion. Such committee shall be elected in a port most convenient to both accused and accuser and witnesses. If the offense against the Union and its principles and policies takes place in the meeting, the meeting may go into the Committee of the Whole and try the member at once, and in this case the findings and recommendations from the Committee of the Whole shall be acted upon as if the report were made by a duly elected Trial Committee.

Sec. 2—If the accused member is not present when charges are made notice of such charges shall

(Board's Exhibit No. 6—continued.)

be posted on the blackboard at Headquarters or the Branches; also the time and place of the trial. The accused member, if he so desires, must be given a copy of the charges in order to enable him to prepare his defense.

Sec. 3—The Trial Committee shall proceed with the trial of the accused after due notice and without unnecessary delay. In case the accused member refuses or neglects to appear, the trial shall proceed as if he were present. It shall be the duty of every member who has been cited as a witness to appear and testify before the Trial Committee.

Sec. 4—A majority of the Trial Committee shall constitute a quorum, and it shall render its findings and judgment in writing to the meeting; such findings and judgment shall be final, unless changed or rejected by the meeting at the Headquarters or Branch to which the report is made.

Appeals

Article XXII.

Officers

Section 1—Any District Officer, Division Secretary-Treasurer or Branch or Joint Agent who shall have been suspended in the manner hereinbefore provided, may appeal to the National Council and shall be reinstated if the National Council by a majority vote, decides that the suspension was unwarranted or in violation of the rules providing for

(Board's Exhibit No. 6—continued.)

such suspension, provided, however, that the reinstatement is ratified by joint meetings of the membership at headquarters or branches affected.

Members

Sec. 2—If a member is suspended, he may appeal to the District Committee. If the District Committee vacates the suspension order, the member shall not be reinstated until the order of the District Committee for reinstatement is ratified by membership meetings at Headquarters and Branches.

General Referendum Votes

Article XXIII.

Section 1—General referendum votes shall be conducted in the same manner that general elections are conducted, except that the time for holding a general vote shall be determined by the National Council, provided the resolution ordering the general votes shall specify the time when a general vote shall be conducted. The National Council shall carry out all the provisions of the resolutions.

Organization on Board Ships

Article XXIV.

Section 1—Every ship carrying a registered crew of more than 100 shall on the second day out of the port or when practicable, call a meeting of all the unlicensed personnel and shall immediately elect a

(Board's Exhibit No. 6—continued.)

committee of six members, two from each Division, which committee shall elect its own chairman.

Sec. 2—It shall be the duty of the chairman of each committee to hold two meetings during each trip, once on the outward bound voyage, and the other on the homeward bound voyage, or such other meetings as the crew may deem necessary.

Sec. 3—The chairman shall see to it that minutes of the meetings are kept and that all tentative resolutions and questions raised at each meeting are contained in the written minutes, and shall forward the minutes to the District Secretary by registered mail.

Sec. 4—The chairman of the ship's committee shall call any special meeting other than those provided for herein, to consider and decide upon any questions affecting any member of any Division. In the event that a dispute arises on board any vessel which dispute is not specifically provided for by agreements in effect between the operator or owner of the vessel and the Union, no action is to be taken by the ship's crew until it arrives in a Port where the Union maintains an office.

Sec. 5—Whenever a vessel is away from its home port, the ship's committee shall be responsible to the National Maritime Union of America for the conduct of the ship's crew, and shall act as a Trial Committee and try any member of the crew whose conduct shall injure the prestige of the Union. The findings of the trial committee shall be presented

(Board's Exhibit No. 6—continued.)

to a general meeting of the ship's crew; if approved by a two-thirds ($2/3$) vote the decision of the ship's committee shall be final unless reversed by a decision of a joint membership meeting held at Headquarters or the Branch where the charges are filed. No member shall be considered exempt from the above rules by reason of his election to the ship's committee.

Sec. 6—The ship's committee shall supervise all elections on board ships in accordance with instructions issued by the National Council.

Sec. 7—All ships having crews of less than 100 shall elect a committee of three delegates who shall have the same powers and same duties and obligations as recited in the Sections 1 to 6. But this clause shall not apply to the Trial Committee. The Trial Committee must have a minimum of five men.

Manner of Amendments

Article XXV

Section 1—This Constitution may be amended in the following manner: Any proposed amendment may be submitted by any member at any regular branch or Division meetings. When submitted, the amendment must be spread in full in the minutes of the meeting and a copy forwarded immediately to the National Secretary at the National Council offices.

Sec. 2—Immediately upon receipt of any proposed amendment, the National Secretary shall

(Board's Exhibit No. 6—continued.)

transmit the proposed amendment to each District Committee. The District Committee shall submit the proposed amendment to the next regular meeting at headquarters and branches in each District. If the amendment is adopted at two successive membership meetings by a majority of the branches and Headquarters of all Districts, it shall be declared adopted.

Sec. 3—This constitution may be amended by a $\frac{2}{3}$ vote of the delegates convened in any National Convention, provided, that any amendment proposed by a Convention must be ratified by a referendum vote.

Meetings

Article XXVI

Section 1—Joint meetings shall be held at Headquarters and Branches at least once a month. Joint meetings shall be called in any one of the following manners:

(a) Upon the request of the National Council in the form of a resolution stating the purpose of the joint meeting.

(b) Upon request of the District Committee in the form of a resolution stating the purpose of the joint meeting.

(c) Upon a resolution adopted by any two division meetings at headquarters or branches.

(d) Upon a petition signed by 50 members at headquarters stating the purpose of the joint meeting.

(e) In Branches where a joint agent is maintained, a joint meeting may be called with a petition signed by 25 members in good standing, stating the purpose of the joint meeting.

Sec. 2—When requested, a joint meeting shall be called not later than twenty-four hours after receipt of such notice or petition.

Sec. 3—A quorum of joint meetings held at headquarters shall be one hundred and fifty (150) full members in good standing. A quorum of joint meetings held in branches where the Union maintains separate Divisions shall be seventy-five (75) full members in good standing. A quorum of joint meetings in all other branches shall be forty (40) full members in good standing.

The Granting of Charters

Article XXVII

Section 1—Charters may be issued to any group of workers engaged in the shipping or marine transportation industry in the following manner:

(a) All applications for the issuance of a charter shall be filed with the National Council.

(b) If the application for affiliation is filed within six months prior to the biennial Convention, the Convention delegates shall have the authority to issue such a charter to the applicant upon conditions to be determined by the Convention; or

(c) Should any such group of workers apply for affiliation at any other time, the National Council

(Board's Exhibit No. 6—continued.)

by a two-thirds vote may adopt a resolution prescribing the terms and conditions under which a charter may be issued to the applicants. However, the charter shall not be issued until the resolution proposed by the National Council is adopted by a two-thirds majority vote of the joint membership meetings held in the Districts.

Oath to Be Administered to Each Applicant

Article XXVIII

Section 1—At the first membership meeting immediately following the probationary period, a probationary member, before becoming a full member in good standing shall have the following oath administered to him by either the Division Branch Secretary, Division Branch Agent or Joint Agent:

“I,, hereby do subscribe to the principles contained in (1) the Preamble (Secretary to read Preamble) and (2) the articles cited in Article II (Secretary to read objectives) and shall do all in my power to further those objectives in order that the prestige of the National Maritime Union shall be enhanced.”

Order of Business of Division Meetings or Joint Meetings

Article XXIX

1. Call to order by Division Secretary-Treasurer, Branch Agent or Joint Agent.

(Board's Exhibit No. 6—continued.)

2. Election of Chairman.
- (a) Election of Recording Secretary.
3. Reading of minutes of previous meeting.
4. Financial and general report of Secretary-Treasurer, Division Branch Agent or Joint Agent.
5. Reading of minutes of preceding District Committee meetings or National Council meetings.
6. Presentation of Bills.
7. Election of Auditing Committee.
8. Patrolmen's reports.
9. Communications and action thereon.
10. Initiation of New Members.
11. Auditing Committee's Report.
12. Special Committee's Reports.
13. Unfinished Business.
14. New Business.
15. Good and Welfare.
16. Adjournment.

Rules of Order

All meetings shall be conducted pursuant to Robert's Rules of Order, Revised 1915 Edition.

BOARD'S EXHIBIT No. 7

Oil Tanker Supplement

* Atlantic * Gulf * Great Lakes *

N. M. U. of A.

The Pilot

Keep Our Union on a True Course

Official Organ of the National Maritime
Union of America

Vol. III—No. 4

New York City, February 3, 1938

East, West, Gulf, Lakes, Inland Boatmen:
On to a National Federation!A Program for All Seamen Sailing on All Vessels
Operated by the Oil Companies

By Jack Lawrenson

(Member, Negotiations Committee,
Member, District Committee)

The District Committee and the Negotiations Committee extend to you warmest fraternal greetings.

This week the National Maritime Union made the greatest advance in its history. On January 13 the agreement for the Tanker Companies was completed and on January 14 the Standard Oil Co. of N. J. signed this agreement at their offices, 30 Rockefeller Plaza, New York. Moe Byne of the Engine Division, Gethyn Lyons of the Stewards

(Board's Exhibit No. 7—continued)

division, and Joe Curran of the Deck division, signed for the Union.

The agreement is designed to cover the whole oil industry operating tankers on the Atlantic and Gulf Coasts. This supplement in which the agreement is presented in full will be printed in tens of thousands of copies and will be distributed on all the tankers in all ports during this coming week. There will be allowed a three-week period in order to enable the tanker crews to review the agreement. Following the three-week period, a secret referendum ballot will then be conducted as to whether you accept or reject the agreement.

At the close of the negotiations with the Tanker Companies, the Negotiations Committee pledged to do all in its power to prevent untoward actions on the part of tanker crews during the period of balloting on the agreement. The Negotiations Committee now asks you to help us carry out this pledge. We ask that all your disputes, prior to the agreement going into effect, be taken up with your shore officials and an attempt be made to settle them amicably without drastic action.

As to the agreement itself: The agreement marks, in many ways, definite advances for the seamen. These advances are as follows:

1. Three weeks annual vacation with full pay for the unlicensed personnel, with the option of ten days every six months.

(Board's Exhibit No. 7—continued)

2. \$5.00 increase in monthly wages, representing a total increase for the industry of nearly \$1,000,000.00 in cash in the pockets of the seamen.

3. Improved living conditions and vastly improved working conditions on all the companies signatory to the agreement.

4. Preferential employment for members of the National Maritime Union at all times.

5. Seventy-five cents per hour for overtime.

6. An arbitration provision which provides for the peaceful, just and speedy settlement of all disputes that may arise in connection with the agreement.

7. Agreement goes into effect April 1, 1938, and expires April 1, 1939, thus bringing a large section of our agreements up close to the summer months.

Some of the weaknesses of the agreement are: The fact that we did not procure the 100% closed shop and possibly a greater monthly increase in pay. But it must be pointed out here that, given a year under this agreement, these additional benefits will surely come.

We feel that this is a frank and honest presentation of the vital factors in the agreement. We wish to point out that this agreement was secured when, in other industries, tens of thousands of men are being laid off and wages are being cut. A year of peaceful relations with the oil industry will do much to help our Union consolidate and strengthen its position in the Maritime Industry.

(Board's Exhibit No. 7—continued)

Herewith, then, is the agreement submitted for your approval.

This Agreement, made this 14th day of January, 1938, by and between the Standard Oil Company of New Jersey, a corporation organized under the laws of the State of Delaware, hereinafter referred to as the Company, and the unlicensed personnel employed on the American flag seagoing vessels manned by the Company, hereinafter referred to as the Unlicensed Personnel or Employees, represented by the National Maritime Union, hereinafter referred to as the Union, Witnesseth:

Whereas, It is the desire of the Union and the Company to enter into an agreement which will prevent strikes and lockouts and insure peaceful adjustment and settlement of all grievances, disputes and differences which may arise between the Company and its Employees, prevent stoppage of work, and tend to stabilize and strengthen the shipping industry, and to establish wage scales and working conditions which will prevail between the parties hereto during the existence of this agreement;

Now, Therefore, It is hereby agreed between the parties as follows:

General Provisions for All Divisions of the Union

Article I.

Section 1. The Company in entering into this agreement hereby recognizes the Union as the

(Board's Exhibit No. 7--continued)

agency for collective bargaining for the Unlicensed Personnel who are members in good standing of the Union employed on board the Company's vessels during period National Labor Relations Board elections are being held.

The Company agrees that it will recognize the Union as the collective bargaining agency for its unlicensed personnel, as, if and when the Union is certified by the National Labor Relations Board as having a majority of the unlicensed personnel employed by the Company.

Section 2. This document shall constitute a provisional agreement between the Company and the Union for its members effective for one year from April 1, 1938, upon ratification by the unlicensed personnel aboard vessels of the Company as hereinafter provided.

If, as and when the Union has been certified by the National Labor Relations Board as the collective bargaining agency for all unlicensed personnel aboard the Company's vessels, this provisional agreement shall automatically become the agreement between the Company and the Union as bargaining agent for all of such employees for the remaining part of the period of one year from April 1, 1938, or for such part of said period as the Union shall continue to represent a majority of the unlicensed personnel on board its vessels, providing ratification of the provisional agreement by the unlicensed personnel aboard vessels has already

(Board's Exhibit No. 7—continued)

taken place. If ratification has not taken place at the time of certification by the Labor Board, the agreement will be effective after ratification for the period of one year from April 1, 1938.

Thereafter this agreement shall continue from year to year unless written notice to terminate or modify is filed by either party thirty days prior to expiration of April 1 of any one year period. Without limiting the foregoing sentence of this paragraph, such renewed agreement shall continue for such part of any subsequent year following April 1, 1939, as the Union shall continue to represent a majority of the unlicensed personnel aboard the Company's vessels.

Ratification of the agreement by the unlicensed personnel aboard vessels of the Company shall be determined by a secret ballot to be conducted jointly by the Company and the Union. Ratification shall be deemed to have taken place when and if 51% of those eligible to vote have been counted as in favor thereof.

Section 3. The Company shall permit, by the distribution of passes, the authorized representatives of the Union to board the Company's vessels for the purpose of consulting with the unlicensed personnel employed thereon, provided, however, the Union's patrolmen shall neither violate any provisions of this agreement nor interfere with or retard the work of the vessel subject to penalty of revocation of the license granted herewith. Insofar as

(Board's Exhibit No. 7—continued)

possible the work of the Union's patrolmen on board the vessel shall be accomplished within two hours.

The Union shall take out insurance which will protect the Company and/or its agent, charterer, operator, and subsidiary or affiliated companies from any claim, loss, damage or liability for loss of life or injury occurring to a representative of the Union while on the property or aboard any vessel owned, chartered or leased by any of the aforementioned parties. Evidence that such insurance protecting the Company and/or its agent, charterer, operator, and subsidiary or affiliated companies against any and all such liability has been taken out and is in force shall be submitted to the Company's satisfaction.

Section 4. Neither the Company nor the Union, during the life of this agreement, as well as during the period of negotiation for its modification or renewal, shall instigate, encourage, or permit any strike, picketing, lockout, "sit-down" or stoppage of work, either direct or in "sympathy" for third parties, insofar as same may be participated in by the employees or members of the respective contracting parties. The Union will not stop, hinder, or restrain, or cause or permit its members to stop, hinder, or restrain the movement of the Company's vessels, loading or discharging cargo on same during the life of this agreement. It is understood between the contracting parties that Union members

(Board's Exhibit No. 7—continued)

participating in any such stoppage of work shall be subject to discharge.

Section 5. Any dispute or grievance arising in connection with the terms and provisions of this agreement shall be settled according to the following procedure:

The unlicensed personnel of each department employed on board vessels operated by the Company should, by secret ballot, elect a representative. However, licensed officers or department heads shall not be eligible for election. One representative shall be elected by and from the Deck Department, one representative elected by and from the Engine Department, and one representative elected by and from the Stewards' Department. Such three representatives shall constitute the ship committee and be the Union representatives aboard the vessel. Any employee who feels that he has been unjustly treated, or has been subjected to an unfair consideration, shall endeavor to have said grievance adjusted either in person or through his respective elected representatives in the following order:

First: Presentation of the complaint to his immediate superior;

Second: Appeal to the head of the department in which the employee involved shall be employed;

Third: Appeal to the master of the ship or a committee composed of the three elected representatives and not more than an equal number of repre-

(Board's Exhibit No. 7—continued)

sentatives consisting of the officers or department heads appointed by the master of the vessel;

Fourth: Appeal directly to the master.

In the event that any such grievance cannot be amicably and promptly settled by resort to the above successive hearings, an appeal may be made to the management's representative in port either directly or together with the Union's shore representative. However, no case shall be reviewed by either the management's representative in port or by the Union's representative in port until it has been reviewed through the procedure outlined above.

If such controversy shall not have been adjusted in the above manner all the facts in the case shall be reduced to writing before the departure of the vessel and submitted in writing to the New York Port Committee composed of three representatives appointed by the Union and three representatives appointed by the Company.

Appeal, if then necessary, shall be in writing to the authorized representative of the Union and the manager of the Marine Department or the president of the Company.

Section 6. If any controversy or grievance arising under the terms of this agreement is not amicably adjusted and settled in the manner hereinbefore provided, same may be submitted to a board of arbitration, under conditions to be mutually agreed upon at the time, selected as follows:

(Board's Exhibit No. 7—continued)

Three (3) to be chosen by the Company and three (3) to be chosen by the Union. These six members shall meet within forty-eight (48) hours after receipt of written notification from either party (Saturdays, Sundays and Holidays excluded) and at that meeting shall select a seventh member. If they cannot agree on the seventh member he shall be designated by the American Arbitration Association. The decision of the board shall be rendered within seventy-two (72) hours unless by agreement time be extended by seventy-two (72) hour periods. The decision of a majority of said board shall be final and binding on both the Company and the Union in such controversy or grievance and shall conclusively determine the same. The Company and the Union shall bear the expenses of their respective appointees but shall share equally the expenses of the seventh member.

Under no circumstances shall there be a cessation of work, strike of any nature, or lockout while arbitration or adjustment of the dispute is in process of being settled as herein agreed upon.

Section 7. The Company and the Union agree, each in its own behalf that there shall be no discrimination, intimidation, or coercion against any employee on board the Company's vessels because of membership or non-membership in any labor organization. Any employee who violates this provision shall be subject to discharge. However, such

(Board's Exhibit No. 7—continued)

action by an individual shall not abrogate this agreement.

Section 8. No member of the Union employed on any vessel operated by the Company shall be required to subscribe to, or become a member of any benefit society, club, or any organization instituted or sponsored by the Company. In the event that any employee is now a member of such benefit society, club, or organization, he may terminate his membership therein at any time and such termination shall not act prejudicially against his present or possible future employment with the Company.

Section 9. The unlicensed personnel shall submit to and undergo such medical examinations as are or may be required by the Company from time to time, and the Company shall retain the right to reject such unlicensed personnel as may be determined by the Company's medical examiners to be unfit for employment in keeping with the Company's rules and regulations. The Company agrees to review carefully any case which the medical examiners of the Union certify to be free from communicable disease and disabling defects and to be able to do the work applied for by the applicant, and if a review fails to establish the facts to the mutual satisfaction of the Company's and Union's medical examiners concerned, the examiner of the Company and of the Union will agree upon a suitable outside doctor whose independent judgment will be deter-

(Board's Exhibit No. 7—continued)

mining on the facts at issue. The expense of the outside consultant will be borne equally by the Company and the Union.

Section 10. Members of the Union while employed on board vessels of the Company agree to comply with all lawful orders of their superior officers and division heads and with all Company rules not inconsistent with the terms and provisions of this agreement. Recognizing the necessity for discipline on board Company vessels and at the same time in order to protect an employee against losing his job unfairly, the Company agrees to post on the bulletin board of each vessel a list of rules which shall constitute cause for which members of the unlicensed personnel may be discharged without further notice.

For other offenses not on the posted list members of the unlicensed personnel shall not be discharged without first having been notified in writing that a repetition of the offense will make him liable to dismissal. In the event that the members of the Union feel that any of the rules or regulations promulgated by the Company are inconsistent with the terms of this agreement, such members agree to make proper and orderly representation as outlined under the grievance machinery of Section 5.

Section 11. The Company shall comply with such laws and regulations as the Secretary of Commerce shall issue through the Bureau of Marine Inspec-

(Board's Exhibit No. 7—continued)

tion and Navigation as to all matters relating to manning, quarters and equipment, and construction and arrangement of the ship.

Section 12. Wherever practicable, lifeboat and other emergency drills shall be held on week days between the hours of 8 A. M. and 4:30 P. M. and on Saturdays between the hours of 8:00 A. M. and 12:00 noon.

Section 13. The Company shall furnish safe gear and working equipment and make every effort to provide safe working conditions at all times.

Section 14. The unlicensed personnel, either on or off watch, shall be paid at double the overtime rate in addition to their regular wages as compensation for handling dynamite, caps, gunpowder and blasting powder.

Section 15. In those outports where there are no regular longshoremen available members of the crew may be allowed to drive winches for handling cargo or handle cargo, and for such work they shall be paid, in addition to their regular monthly wage, the overtime rate. This section shall not be so construed as to be applicable to any work where longshoremen are not available due to labor trouble.

Section 16. No workaway shall be carried except for the sole purpose of providing transportation and, in such case, shall be in addition to the regular crew.

Section 17. When additional certified men are hired for temporary day work on board vessels in

(Board's Exhibit No. 7—continued)

port to assist the regular members of the crew on the work ordinarily performed by them, the rate of pay shall be \$6.00 per eight-hour day, with a minimum of one half day's pay in any one day.

Section 18. If due to illness or other reasons, a member of the unlicensed personnel is assigned to another rating higher than his own he shall receive the higher rate of pay during such assignment, but there shall be no reduction in his regular rate provided such employee takes a job of lower rating, and his customary hours shall then become the hours of the new assignment.

Section 19. When members of the unlicensed personnel in the Stewards' Department are required to do extra work because a vessel sailed "short-handed," the wages of the absent employee shall be divided among the employees who performed his work. When members of the unlicensed personnel in the Deck and Engine Departments are required to work in addition to their regular watches because a vessel sails "short-handed," they shall be paid for the extra time at the overtime rate.

Section 20. After one year of continuous service from April 1, 1938, every unlicensed member of the crew shall be entitled to an annual vacation of twenty-one days with pay.

If an employee has six months' continuous service, he may be granted a vacation of not more than ten days with pay, but such period will be deducted from the twenty-one days.

(Board's Exhibit No. 7—continued)

While the individual's wishes will be considered wherever possible vacations can only be granted at such times and places as do not interfere with the operating necessities of the service. (Vacations shall be cumulative to the extent mutually agreed upon between the individual and the company.)

Continuous service shall not be deemed to be broken by leaves of absence on account of illness, accident, vacations, layoffs for lack of work, or leaves of absence for valid reasons from the service of the Company, provided, however, that no vacation shall accrue during such periods of furlough.

If after six months' continuous service, an employee is terminated for any reason he will be entitled to receive, in addition to his regular pay, one week's pay as a vacation allowance at time of termination. No other cash allowance in lieu of vacations shall be made. Any employee discharged for cause has the right of appeal under the grievance procedure provided in Article I, Section 5.

If an employee is terminated for any reason with less than six months' continuous service, no vacation pay will be allowed.

Section 21. The Company agrees not to discriminate against any employee for union activities which are not inconsistent with the provisions of this agreement. The Union, in turn, agrees that Union activities entered into by its members will not be permitted to interfere with the proper working of the vessel.

(Board's Exhibit No. 7—continued)

Section 22. Members of the unlicensed personnel may remain continually in employment on the same vessel, provided that both the Company and the member desire such employment to continue.

Section 23. All vessels of the Company when leaving port must have deck cargo, when carried, properly secured before arriving at the sea buoy.

Section 24. If at any future date members of the unlicensed personnel of the Company are requested to provide their own uniforms it is agreed that at such time the parties hereto shall meet and adjust same on the basis of additional compensation.

Article II.

Port Time.

Section 1. Port time shall be defined as follows:

(a) Port time shall not commence in the case of a vessel anchoring because of fog or other impediments to navigation, awaiting tides, or berth, or waiting at quarantine to proceed to dock.

(b) When a vessel anchors for the purpose of loading or discharging cargo, port time shall commence when this operation begins.

(c) When the loading or discharging operation ceases for the purpose of moving vessel to another berth, dock or inland port, port time shall cease, provided however the period of moving vessel exceeds three hours.

(d) Port time shall also be deemed to commence when vessel is securely moored to the dock.

(Board's Exhibit No. 7—continued)

Section 2. When a vessel moors at dock or drops anchor for the purpose of loading or discharging cargo or tank cleaning, sea watches may be continued at the option of the master.

Article III.

Overtime.

Section 1. Overtime shall in no case be worked without the prior authorization of the master or person acting by authority of the master.

Section 2. Any and all work performed during port time, as defined in Article II, on Saturday afternoons, Sundays and holidays, shall be considered overtime, except as specified otherwise in Departmental Working Rules.

Section 3. Overtime shall commence at the time any employee shall be called to report for work outside of his regular schedule, provided such member reports for duty within fifteen (15) minutes, otherwise overtime shall commence at the actual time such employee reports for duty; and such overtime shall continue until the employee is released.

Section 4. Where overtime worked is less than one (1) hour overtime for one full hour shall be paid. Where the overtime worked exceeds one hour, the overtime work performed thereafter shall be paid for in one-half-hour periods, a fractional part of such period to count as one-half hour.

(Board's Exhibit No. 7—continued)

Section 5. Where overtime is worked, except as defined in Section 6 of this article, the employee concerned shall sign the overtime sheet immediately on completion of the work, which shall also be countersigned by the department head authorizing the work. If there is any question regarding the amount of overtime allowed, he shall at once follow the procedure outlined in Section 5, Article I.

Section 6. No overtime shall be paid for work in addition to the regular schedule in connection with drills, inspections or examinations required by law or emergency work required for the safety of the passengers, crew, vessel, cargo, or another vessel in distress. This clause shall not apply to annual inspection of the vessel.

Section 7. All money due for approved overtime work shall be paid at the time of signing off, or in any event, not more than forty-eight (48) hours after the completion of the voyage.

Article IV.

Holidays and General Conditions.

Section 1. The Company agrees to recognize the following as holidays: (1) New Year's Day, (2) Washington's Birthday, (3) Memorial Day, (4) Independence Day, (5) Labor Day, (6) Thanksgiving Day, (7) Christmas Day, (8) Armistice Day. In the event that any of the above named holidays fall on Sunday, the following Monday shall be observed as such holiday.

(Board's Exhibit No. 7—continued)

Section 2. When traveling in the course of employment from one vessel to another or from one port to another unlicensed personnel shall be paid regular wages while en route and shall be provided with necessary transportation, and subsistence at the rate of \$3.00 per day, except where subsistence is included with transportation. When traveling overnight, a berth shall be provided.

When any employee is left at any port and when such employee would ordinarily be entitled to transportation under the law, the Company shall forthwith provide transportation back to the port of signing on, and may utilize its own vessels for that purpose.

Section 3. The following items shall be supplied to the unlicensed personnel: (1) A suitable number of clean blankets; (2) white sheets and pillowcases, which shall be changed weekly; (3) face and bath towels, which shall be changed twice weekly. No clean linen or towels shall be furnished until soiled linen and towels have been returned to the steward.

Section 4. Mattresses or pillows filled with straw or excelsior shall not be supplied.

Section 5. All dishes provided shall be of crockery ware.

Section 6. Suitable messrooms shall be provided separate and apart from the sleeping quarters and shall be equipped with stable chairs or benches.

Section 7. All quarters and messrooms shall be

(Board's Exhibit No. 7—continued)

adequately ventilated and a sufficient number of fans to secure such ventilation shall be installed.

Section 8. A sufficient number of lockers shall be installed so that each employee shall have one full-length locker with sufficient space to stow a reasonable amount of gear and personal effects.

Section 9. A recreation room separate from the sleeping quarters of the unlicensed personnel shall be provided on new vessels contracted for after the date hereof for the use of the unlicensed personnel.

Section 10. All quarters are to be kept free from vermin insofar as possible.

Section 11. A refrigerator shall be furnished for night lunches for the use of the unlicensed personnel. Such refrigerator if not electric, shall be adequately supplied with ice for such purpose.

Section 12. When board and room are not furnished, unlicensed members of the crew shall receive the following allowances:

- (a) In lieu of breakfast, \$0.60;
- (b) In lieu of dinner, \$0.75;
- (c) In lieu of supper, \$0.75;
- (d) In lieu of quarters, \$1.25 per night.

Section 13. Meal hours shall be as follows:

Breakfast, 7:30 A. M. to 8:30 A. M.; dinner, 11:30 A. M. to 12:30 P. M.; supper, 5.00 P. M. to 6:00 P. M.

These hours may be varied not to exceed one hour either way.

(Board's Exhibit No. 7—continued)

Article V.

Tank Cleaning.

Men entering tank for cleaning or actually engaged in the removal of sludge, either on deck, in tanks, or in pump room bilges shall be paid the following rates:

- (a) Men on watch, at overtime rate;
- (b) Men not on watch, \$1.00 per hour.

Men on watch between the hours of 6:00 A. M. and 5:00 P. M. required to shift Butterworth machines or wash down the tanks from the deck shall not receive this extra remuneration.

Article VI.

Preferential Employment.

Section 1. The Company agrees that if and when the Union is certified as having a majority of the unlicensed personnel aboard Company vessels and during the period that this agreement is in effect members of the Union shall be given preference of employment at all times if said members are satisfactory to the Company to fill the respective positions; provided however that this section shall not be construed to require the discharge of any employee who may not desire to join the Union, nor shall it apply to reshipments of former employees and particularly employees who have been absent on account of illness, accidents, vacations or leaves of absence. To protect service rights, the company

(Board's Exhibit No. 7—continued)

may transfer unlicensed personnel in its employ from one vessel to another or from one port to another.

Specific Departmental Working Rules

Article VII.

Wage Schedule—Unlicensed Personnel.

Overtime rate for all unlicensed personnel, 75c per hour.

Deck Department: Ordinary seaman, \$65.00; A. B. seaman, \$85.00; boatswain, \$100.00; quartermaster, *\$87.50; carpenter, \$115.00; first pumpman, \$115.00; second pumpman, *\$95.00.

Engine Department: Wiper, \$75.00; fireman, \$85.00; oiler, \$90.00; electrician, *\$175.00; machinist, *\$115.00; storekeeper, *\$90.00; water tender, *\$90.00; water tender—fireman, *\$90.00.

Stewards' Department: Chief steward, \$140.00; chief cook, \$120.00; second cook and baker, \$100.00; utility man, \$60.00; P. O. and officers' messman, \$65.00; crew messman, \$60.00; galleyman, *\$70.00.

(*When carried.)

Article VIII.

Deck Department Working Rules.

Section 1. The hours of work for day workers shall be eight (8) hours per day week days between 8:00 A. M. and 5:00 P. M. with an hour off for lunch and from 8:00 A. M. to 12 noon on Saturdays.

Section 2. (a) At sea and in all open harbors

(Board's Exhibit No. 7—continued)

or roadsteads, the crew shall stand regular watches as required by the master, but no unnecessary work shall be performed on Saturday afternoons, Sundays or holidays or between the hours of 5:00 P. M. and 6:00 A. M. However, no chipping nor scaling shall be required between 6:00 A. M. and 8:00 A. M.

(b) On Saturday afternoons, Sundays and holidays, and between 5:00 P. M. and 6:00 A. M. at sea, the crew shall be required to do the necessary work for the safe navigation and operation of the vessel, but all work distinct from these required routine duties shall be paid for at the regular overtime rates.

Section 3. When sea watches are broken they shall be set when the vessel leaves for sea but no later than noon of the day of departure. Docking and undocking shall be overtime for the watch below when called upon to perform this work and shall be paid for at the overtime rate.

Section 4. Ordinary seamen shall be required to clean the sailors' toilet, wash rooms and quarters on ship's time.

Section 5. The carpenter, when carried, if required to stand by Saturday afternoons, Sundays and holidays, or between the hours of 5:00 P. M. and 8:00 A. M.; such time shall be overtime.

Section 6. The duties of the quartermaster, when carried, at sea shall be to steer the vessel when vessel is not fitted with automatic steering gear. When vessel is fitted with automatic steering gear, he may assist in the maintenance of the wheel-house

(Board's Exhibit No. 7—continued)

and bridge deck. In port he shall stand gangway watch and assist the senior deck officer in charge.

Section 7. The day of departure shall be the day the vessel leaves for sea from the port from which the vessel is cleared and sea watches set and maintained from that port.

Section 8. One hour shall be allowed for battening down rigging up or securing general deck gear on Saturday afternoons, Sundays and holidays or between the hours of 5:00 P. M. and 8:00 A. M. by the watch without payment of overtime; provided however, that if the work exceeds one hour during the period specified the regular overtime rate shall apply for the excess time.

Engine Department Working Rules.

Section 1. The hours for all day workers shall be eight (8) hours per day weekdays from 8:00 A. M. to 5:00 P. M. with one hour off for lunch, and from 8:00 A. M. to 12:00 Noon on Saturdays.

Section 2. When an electrician is carried he shall be responsible for the upkeep and repair, alteration and renewal and reasonable installations in connection with the vessel's electrical equipment, as directed by the engineer in charge.

Section 3. When a machinist is carried, his duties at sea and in port shall consist of assisting in the general repair, upkeep and reasonable installation of the ship's machinery and equipment, as directed by the engineer in charge. He shall not

(Board's Exhibit No. 7—continued)

be required to do any painting or chipping and sealing of paint work or polishing brass work.

Section 4. (a) Pumpmen at sea: The hours of work for pumpmen shall be from 8:00 A. M. to 12:00 Noon; from 1:00 P. M. to 5:00 P. M. weekdays and from 8:00 A. M. to 12:00 Noon Saturdays. For all work performed in excess of these hours he shall be paid at the regular overtime rate. Pumpmen's duties shall consist of handling fuel oil, ballast, cargo and tank cleaning equipment and all work necessary for the maintenance and operation of cargo pumps, auxiliaries, general cargo lines, and all deck machinery. He shall not be required to chip paint, scale paint, polish brass, or do any work that is not considered maintenance for the machinery under his care. He shall not be required to make heavy installations where this work is customarily done by shore gangs. This however, shall not be construed to apply to renewals and replacements of worn out equipment.

(b) Pumpmen in port: At the discharge port, the first pumpman's eight (8) hours are to begin with the instructions to start discharging cargo or with the instructions to stand by to discharge cargo; such time to be continuous without deducting time for meals if such time is twenty minutes or less. If carried, the second pumpman's eight (8) hours are to begin when he relieves the first pumpman. Each pumpman is to work eight (8) hours in each twenty-

(Board's Exhibit No. 7—continued)

four (24) hours, and any additional time worked shall be considered overtime.

Section 5. (a) Watertenders at sea: Watertenders, when carried, shall tend water and boiler auxiliaries, fuel service tanks, oil temperatures and stack drafts in fire-room and supervise firing. They shall handle any valves connected with the operation of the boilers as directed by the engineer in charge. Watertenders shall not be required to crack stops and warm up steam lines when cutting in. However, when stops have been cracked they may be further regulated by the watertenders under the direction of the engineer in charge.

(b) Watertenders in Port: Watertenders, when carried in port on ships having watertube boilers, shall stand watches and tend water, auxiliaries, and supervise firing. While on watch, they shall not be required to perform any other duties than those herein stated. When working on day work they shall assist in the general repairs in the Engine Department as directed by the engineer in charge.

Section 6. (a) Oilers at sea: 1. Oilers on watch on reciprocating engines. Their work shall consist of oiling main and auxiliary machinery, the steering gear, ice machine and blowers which may be located outside engine room spaces. They are to keep hand-rails, gratings and floor plates wiped in the immediate vicinity of moving machinery and if water guages and checks are in engine room they

(Board's Exhibit No. 7—continued)

shall tend water. Oilers at sea on all vessels shall not be required to chip, scale, or wash paint, or paint, shine brass, or perform any other duties aside from the regular routine work.

2. Oilers on watch on turbine engines: If required to tend water, their duties shall remain as outlined for reciprocating engines. When not required to tend water, oilers may be required to perform maintenance work, said maintenance work not to exceed one hour daily.

3. Oilers on watch on motor vessels: They shall be governed by the same rules as are in effect for vessels with reciprocating engines.

4. On all vessels when at sea the oilers on watch shall not be required to attend or operate the additional engine room machinery necessary for the functioning of the Butterworth machines in the tank cleaning operation.

(b) Oilers in port: 1. Oilers in port on reciprocating, turbine and motor vessels if on watch at anchor or at the dock, provided they are not required to tend water, shall assist in making repairs between the hours of 6 A. M. and 5 P. M. No work outside of the routine standing of the anchor watch shall be required of the oilers between the hours of 5 P. M. to 6 A. M.

2. When in port and watches broken, their hours shall be those of day workers, and shall assist with the repairs in Engine Department as directed by the engineer in charge.

(Board's Exhibit No. 7—continued)

3. Members of the unlicensed personnel of the Engine Department on motor vessels when required to enter the casings for the purpose of cleaning or scaling shall be paid the tank-cleaning rate.

Section 7. (a) Firemen at sea: On watch they shall tend the fires, clean burners, fuel oil strainers and keep their stations clean. They are not to go above the first grating, behind the boilers on ship's side or on ship's side abreast the boilers or below the floor plates for any cleaning or painting except to clean loose oil resulting from their work. Firemen on watch shall not be required to chip these aforementioned places. They are not to tend water unless the checks and guages are in the fire-room in which case they may be required to tend water and shall be rated a fireman-watertender. For vessels fitted with more than three Scotch boilers and where firemen are required to tend water, they shall not be required to clean any station with the exception of the floor plates.

Firemen shall assist with the blowing of tubes where vessel is equipped with mechanical tube blowing apparatus. On vessels not so equipped and where tubes are blown by hand by opening uptake doors and using hand lance, the firemen assisting shall be paid the tank-cleaning rate for such time as required for this duty.

(b) Firemen in port: When watches are not broken, their duties shall be the same as at sea. When watches are broken their hours shall be the

(Board's Exhibit No. 7—continued)

same as day workers and their duties shall consist of assisting in the general repairs and maintenance as directed by the engineer in charge. Firemen on motor vessels when not required to tend fires at sea may be required to do maintenance work on their watches except for Saturday afternoons, Sundays and holidays. Maintenance work on night watches will consist of general cleaning but no painting or chipping will be done.

Section 8. Firemen-watertenders (combination). When carried, they shall perform the duties of firemen as defined in Section 7 and tend water at sea on vessels fitted with watertube boilers on which two boilers are used for the main engine. If more than two boilers are used for main engines, watertenders shall be carried. In port when watches are broken their duties shall be the same as those of firemen in port.

Section 9. The storekeeper when carried, at sea or in port, shall supervise and assist the wipers in the maintenance and general work in Engine Department spaces, keep storerooms in order as directed by the engineer and assist in repair work when required.

Section 10. Wipers, at sea and in port, shall be required to do the general cleaning and upkeep in the Engine Department spaces and assist in repair work as directed by the engineer in charge. When cleaning fuel oil and domestic fresh water tanks they shall receive the regular tank-cleaning rate.

(Board's Exhibit No. 7—continued)

Wipers shall also keep the wipers' and firemen's toilet, washrooms and quarters clean on ship's time.

Stewards' Department Working Rules.

Section 1. The chief steward shall be recognized as the head of the Stewards' Department and shall direct the work of the personnel employed therein. The steward likewise may do any work in the preparation of meals or other work which he may deem necessary for the efficient operation of the department.

Section 2. The hours of the Stewards' Department shall be eight (8) hours each day in a spread between 6:15 A. M. to 6:15 P. M. except for the utility man. No overtime shall be paid for the preparation and serving of regular meals and cleaning of quarters, galley and messrooms, within hours specified.

Section 3. Normal manning scale of stewards' department shall be as follows:

Number of Crew Excluding Stewards' Department	Manning Scale Stewards' Department
23 to 28 inclusive	6
29 to 36 inclusive	7

(a) On vessels having a crew of 37 or more exclusive of Stewards' Department, additional members of the Stewards' Department shall be added on the basis of one (1) additional man for five (5) or less of additional crew or passengers carried.

(Board's Exhibit No. 7—continued)

(b) One employee of the Stewards' Department not engaged in the preparation and serving of food shall be rated as utility man. Hours of work shall be eight hours in a spread between 5 A. M. and 5 P. M. His duties shall consist of lighting the galley fires, cleaning the toilets and bathrooms, except those of firemen and sailors, and performing general cleaning work under the supervision of the chief steward.

Section 4. Members of the Stewards' Department shall not be required to prepare and serve other than the three regular meals and prepare regular night lunches for the watches. If, on the orders of the master or commanding officer, lunches are served in addition to the three regular meals already provided for, one hour's overtime shall be paid to each man actually engaged in the preparing and serving of such lunches, provided however, that where meals are served to longshoremen and Panama Canal laborers on board any vessel, the sum of thirty cents for each person served shall be equally distributed to those actually engaged in this work, in lieu of overtime.

Section 5. In port all work performed on Saturday afternoons, Sundays and holidays, shall be paid for at the regular overtime rate. If employees in the Stewards' Department are required to work Saturday afternoons in port, they shall receive not in excess of four hours' overtime pay unless the as-

(Board's Exhibit No. 7—continued)

signment requires work in addition to their regular duties specified in Section 2.

Section 6. In port all refuse compartments shall be located convenient to the galley.

Section 7. No member of the Stewards' Department shall be required to serve coffee or meals in the engine room, nor shall they be required to enter the engine room at any time. Upon order of the Master they may be required to serve coffee or meals on the bridge.

Section 8. When members of the Stewards' Department are required to stow stores away requiring more than fifteen minutes they shall be paid overtime in addition to their regular wages at the overtime rate. Members of the Stewards' Department shall not be required to carry stores or linens from shore to vessel or from vessel to shore.

Section 9. Members of the Stewards' Department shall not be required to do chipping, scraping or painting. However, the utility man may be required to "touch up" paint when necessary.

Section 10. For vessels running coastwise on arrival at discharge port, sufficient bread, if available, will be supplied for a forty-eight hour period.

Article IX

Section 1. Ratification of this agreement by the unlicensed personnel employed on the vessels of the Company shall be conclusive that the agreement is binding on all such unlicensed personnel and is

(Board's Exhibit No. 7—continued)

within the authorization of the Constitution of the Union.

Section 2. In the event that any provision of this contract shall at any time be declared invalid by any court of competent jurisdiction, such decision shall not invalidate the entire agreement, it being the express intention of the parties hereto that all other provisions not so declared invalid, shall remain in full force and effect.

In witness whereof, the parties hereto have caused these presents to be executed by their duly authorized officers in the City of New York, State of New York this 14th day of January, 1938.

NATIONAL MARITIME
UNION OF AMERICA
DECK DIVISION
BY JOE CURRAN
ENGINE DIVISION
BY MOE BYNE
STEWARDS' DIVISION
BY GETHYN LYONS

(Notary)

By: H. ESSELBORN
Manager, Operating
Division
Standard Oil Company
of New Jersey.

(Notary)

(Board's Exhibit No. 7—continued)

The following Companies have signed the above agreement:

Standard Oil Co. of New Jersey

Socony-Vacuum Oil Co.

Pennsylvania Shipping Co.

Sinclair Oil Co.

Gulf Oil Corp.

C. D. Mallory & Co.

Tide-Water Associated Oil Co.

The following Companies are to be signatory to the Agreement:

The Texas Co.

City Service Oil Co.

Pure Oil Co.

Richfield Oil Co.

Continental Oil Co.

Kellogg Steamship Co.

Pan-American Petroleum Co.

23	F Roderick	30	Oiler	"	S	Mo—Mrs. Josephine 316 Warren St. Providence, R.I.
24	J H Breithaupt	39	Fireman	"	S	Mo—Mrs. Marie, Glasco, N.Y.
25	D F Giovannia	25	Fireman	"	S	Step-Fa—F. C. Brown, Rolinson, Me.
26	Jack Kane	21	Fireman	"	S	Mo—Mrs. Addie, 624, 6th. St. Port Arthur, Texas.
27	Joeey E Matlock	23	Wiper	"	S	Mo—Mrs. Effie, Mount Enterprise, Texas.
28	Simeom C Harris	46	Wiper	"	S	Sis—Monet Mason, Silbee, Texas, % Miss Horn. Wife—
29	Michel Iesec	59	Steward	"	M	308 Thomas Blvd., Port Arthur, Texas. Wife—Mrs. L.
30	Leighton F Bush	38	Cook	"	M	644 Thomas, Port Arthur, Texas.
31	Ted Snook	17	Messman	"	S	Mo—Mrs. Wm. K. 2927, 7th. St. Port Arthur, Texas Fa—Wm.
32	Cecil McDonald	21	Messboy	"	S	Sugartown, La.
33	Roland La Flier	23	Messboy	"	S	Mo—Mrs. Rennie T. La Fleur, Ville Platte, La.
34	Vernon Craft	32	Messboy	"	S	Mo—Mrs. J F, Merryville, La.

RESPONDENT'S EXHIBIT No. 19-A

CREW LIST

Vessel S/S "Washington"
From Port Arthur, Texas

Sailing Date January 12th, 1938
To Bayonne, N. J.

NOTE: Crew List Must Be Mailed Before Each Sailing.

No.	Name	Age	Capacity	Citizen of What Country	Married or Single	Name, Relationship and Address of Next of Kin
1	Charles H. Olson	39	Ch. Mate	U.S.A.	M	Wife—Mrs. Nell, 2815, 7th. St. Port Arthur, Texas.
2	J W Carr	31	2ND. Mate	"	S	Fa—C.S. Phillipsburg, Mo.
3	Michael Corsi	32	3RD. Mate	"	M	Wife— 108 Warren St. Brooklyn, N.Y.
4	Win. M. Cline	45	Rdo. Opr.	"	M	Wife— 426 West 23RD. Houston, Texas.
5	Walter Giese	52	Boatswain	"	S	None— 1040 Houston Ave., Port Arthur, Texas.
6	Fred F Franklin	37	Quart.	"	M	Wife—Mrs. F. F. 121 LakeShore Drive, Port Arthur, Tex.
7	Wesley Lewis	30	Quart.	"	S	Mo—Mrs. Laura Lewis, 934 Wheaton St., Savannah, Ga.
8	F Richards	49	Quart.	"	S	Niece—Mrs. Mary Whitehouse, Oregon City, Ore.
9	Alfred Forde	40	A.B.	"	S	Bro—S. 562, 69th. St. Brooklyn, N.Y.
10	Carrol B Crosby	19	A.B.	"	S	Mo—Mrs. E R Flaherty, 831 LakeShore Drive, Port Arthur, Tex.
11	Pleasant M Linville	38	A.B.	"	S	Mo—Mrs. C E Linville, 1250 W 2nd. St. San Pedro, Calif.
12	Leo Summerlin	28	O.S.	"	S	Bro—B V Summerlin, Luverne, Ala.
13	Louis A Simmons	34	O.S.	"	S	Mo—Mrs. R Simmons Kirbyville, Texas.
14	W C Bourn	34	O.S.	"	M	Wife—Mrs. B. 703 Washington St. Port Neches, Texas
15	Nathaniel Dilbert	49	Ch. Engr.	"	M	Wife—Mrs. N. 3209, 6th. St. Port Arthur, Tex.
16	Ivar N Riise	65	1st. Asst.	"	M	Wife— Smallwood, Ll., N.Y.
17	W A Gower	34	2ND. "	"	S	Mo—2611 Tyson Ave., Tampa, Fla.
18	Arthur J Baird	40	3RD. "	"	M	Wife—Mrs. A J. 820 Woodworth Blvd., Port Arthur, Tex.
19	David B Montgomery	28	Pumpman	"	M	Wife— 542, 6th. St. Port Arthur, Tex.
20	A Maselli	38	2ND. Pump.	"	S	Aunt—Mrs. M. Dickinson, Texas.
21	Geo. Krueger	23	Oiler	"	S	Mo—Mrs. R. 690 Mill St. NewbreunFels, Texas.
22	G E Riggs	31	Oiler	"	S	Mo—Mrs. Nancy, Allinson, Tenn.
23	F Roderick	30	Oiler	"	S	Mo—Mrs. Josephine 316 Warren St. Providence, R.I.
24	J H Breithaupt	39	Fireman	"	S	Mo—Mrs. Marie, Glasco, N.Y.
25	D F Giovannia	25	Fireman	"	S	Step-Fa—F. C. Brown, Rolinson, Me.
26	Jack Kane	21	Fireman	"	S	Mo—Mrs. Addie, 624, 6th. St. Port Arthur, Texas.
27	Jocey E Matlock	23	Wiper	"	S	Mo—Mrs. Effie, Mount Enterprise, Texas.
28	Simeon C Harris	46	Wiper	"	S	Sis—Monet Mason, Silbee, Texas, % Miss Horn.
29	Miehel Lessee	52	Steward	"	M	Wife— 308 Thomas Blvd., Port Arthur, Texas.
30	Leighton F Rush	38	Cook	"	M	Wife—Mrs. L. 644 Thomas, Port Arthur, Texas.
31	Ted Snook	17	Messman	"	S	Mo—Mrs. Wm. K. 2927, 7th. St. Port Arthur, Texas
32	Cecil McDonald	21	Messboy	"	S	Fa—Wm. Sugartown, La.
33	Roland La Fluor	23	Messboy	"	S	Mo—Mrs. Rennie T. La Fleur, Ville Platte, La.
34	Vernon Craft	32	Messboy	"	S	Mo—Mrs. J F. Merryville, La.

22	Jim Russell	39	Oiler	"	M	Route #1 Box 35, Warren, Tex.
23	Edward Carson	38	Oiler	"	S	Sis—Mrs. E. D. Fraun Center St. Westfield, Pa.
24	Donald Giovannia	25	Fireman	"	S	Fa—F. C. Brown Robinson, Me.
25	J. T. Stewart	34	Fireman	"	S	Mo—Mrs. E. 400 W. 14th. St. Port Arthur,
26	J. H. Breithaupt	40	Fireman	"	S	Mo—Marie Glasco, N.Y.
27	Ralph Lavin	20	Wiper	"	S	Bro—Wm. P. Lavin 10 Cedar St. Brooklyn, N.Y.
28	Fred W. Williams	40	Wiper	"	S	Mo—Mrs. A. Williams 2326 Loraine Ave., Cleveland, O.
29	M. Lesece	59	Steward	"	M	Wife— 3408 Thomas Blvd., Port Arthur, Tex.
30	L. Bush	38	Cook	"	M	Wife— 644 Thomas Blvd., Port Arthur, Tex.
31	C. C. O'Neal	18	Messman	"	S	Mo—Mrs. Elma 2212, 9th. St. Port Arthur, Tex.
32	Stanford Kelsey	23	Messboy	"	S	Mo—Mrs. B. Hall 100 Fernwood Drive, Dayton, O.
33	Luther G. Olive	22	Messboy	"	S	Mo—Mrs. L. W. Olive Strong, Ark.
34	Cecil McDonald	22	Messboy	"	S	Fa—Wm. [Illegible] Suga [Illegible]

RESPONDENT'S EXHIBIT No. 19-B

CREW LIST

Vessel S/S Washington
Sailing Date November 6th, 1933

From New Haven, Conn.
To Annesville, La.

Note: Crew list must be mailed before each sailing.

No.	Name	Age	Capacity	Citizenship of What Country	Married or Single	Name, Relationship and Address of Next of Kin
1	C. B. Johannesen	49	Ch. Mate	USA	M	Wife— 483 Pine St. Beaumont, Texas. Fa—C. S. Carr
2	J. W. Carr	31	2ND.	"	S	Phillipsburg, Mo.
3	M. Corsi	32	3RD.	"	M	Wife— 8712, 55th. Road, Elmhurst, L.I., N.Y.
4	Wm. M. Cline	45	Rdo. Opr.	"	M	Wife 527 W. 19th. St. Houston, Texas.
5	Harry V. Kerr	38	Bos'n.	"	S	Sis—Mrs. N. Martin 1231, 17th. St. Port Arthur, Tex.
6	Archie C. West	37	Quart.	"	S	Mo—Mrs. A. Peterson California, Mo.
7	C. E. Bridwell	35	Quart.	"	S	Fa—Elmer 455 E. Grand, Springfield, Mo.
8	C. E. Hansen	25	Quart.	"	S	Sis—Mrs. H. T. Brader 226 S. Fulton St. Allentown, Pa.
9	E. R. Munsell	41	A.B.	"	S	Fa—John Route #4, Bloomington, Ill.
10	Astor E. Poag	24	A.B.	"	S	Aunt—Mrs. Elhough Horgots Cherokee, Ala.
11	Harry G. Pedersen	50	A.B.	"	M	Wife— 1522 Panola St. New Orleans, La.
12	L. A. Simmons	34	O.S.	"	S	Mo—Mrs. R. Simmons Kirbyville, Tex.
13	Ezra E. Fitts	26	O.S.	"	S	Mo—Mrs. E. J. Pitts Route #1 Box 27, Annaeo, La.
14	Mannel Thibodaux	37	O.S.	"	M	Wife— 233, 7th. St. Port Arthur, Tex.
15	Nat Dilbert	49	Ch. Eng.	"	M	Wife— 3209, 6th. St. Port Arthur, Tex.
16	E. Andersen	47	1ST. Asst.	"	S	None— 520 Dallas Ave., Port Arthur, Tex.
17	W. A. Gower	34	2ND.	"	S	Mo—Mrs. W. A. Gower, 2611 Tyson Ave., Tampa, Flo.
18	R. E. Murphy	31	3RD.	"	M	Wife— 102, 73rd. St. Houston, Tex.
19	David B. Montgomery	29	Pumpman	"	M	Wife— 749 Mobile Ave., Port Arthur, Tex.
20	A. Maselli	39	2ND. Pump.	"	S	Aunt—Mrs. Margaret Maselli Dickenson, Tex.
21	Geo. Krueger	23	Oiler	"	S	Mo—Mrs. Laska M. 690 Mill St. Newbreunfels, Tex.
22	Jim Russell	39	Oiler	"	M	Wife— Route #1 Box 35, Warren, Tex.
23	Edward Carson	38	Oiler	"	S	Sis—Mrs. E. D. Frann Center St. Westfield, Pa.
24	Donald Giovannia	25	Fireman	"	S	Fa—F. C. Brown Robinson, Me.
25	J. T. Stewart	34	Fireman	"	S	Mo—Mrs. E. 400 W. 14th. St. Port Arthur, Mo—Marie
26	J. H. Breithaupt	40	Fireman	"	S	Glascio, N.Y.
27	Ralph Lavin	20	Wiper	"	S	Bro—Wm. P. Lavin 10 Cedar St. Brooklyn, N.Y.
28	Fred W. Williams	40	Wiper	"	S	Mo—Mrs. A. Williams 2326 Loraine Ave., Cleveland, O.
29	M. Lescoc	59	Steward	"	M	Wife— 3408 Thomas Blvd., Port Arthur, Tex.
30	L. Bush	38	Cook	"	M	Wife— 644 Thomas Blvd., Port Arthur, Tex.
31	C. C. O'Neal	18	Messman	"	S	Mo—Mrs. Elma 2212, 9th. St. Port Arthur, Tex.
32	Stanford Kelsey	23	Messboy	"	S	Mo—Mrs. B. Hall 100 Fernwood Drive, Dayton, O.
33	Luther G. Olive	22	Messboy	"	S	Mo—Mrs. L. W. Olive Strong, Ark.
34	Cecil McDonald	22	Messboy	"	S	Fa—Wm. [Illegible] Suga [Illegible]

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 9518

THE TEXAS COMPANY, MARINE DIVISION,
Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

CERTIFICATE OF THE NATIONAL LABOR
RELATIONS BOARD

The National Labor Relations Board by its Secretary, duly authorized by Section 1 of Article VI, Rules and Regulations of the National Labor Relations Board, Series 2, as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record in a proceeding had before said Board entitled "In the Matter of The Texas Company, Marine Division and National Maritime Union, Port Arthur Branch," the same being Case No. C-1276 before said Board, such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceedings was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Amended charge filed by the National Maritime Union, Port Arthur Branch, sworn to August 24, 1938.

2. Complaint and notice of hearing issued by the National Labor Relations Board, dated September, 3, 1938.

3. Amended answer of respondent, sworn to September 12, 1938.

4. Certified copy of order designating Howard Myers Trial Examiner for the National Labor Relations Board, dated September 9, 1938.

5. Certified copy of order designating Charles E. Persons Trial Examiner for the National Labor Relations Board in place and stead of Howard Myers, dated November 25, 1938.

6. Copy of respondents' answer to complaint, sworn to September 9, 1938.

Documents listed hereinabove under items 1-5, inclusive, are contained in the exhibits and included under the following item:

7. Stenographic transcript of testimony before Howard Myers and Charles E. Persons, Trial Examiners for the National Labor Relations Board, on September 12, 13, 14, 15, 16, 19, 20, 21, 22 and November 28 and 29, 1938, respectively, together with all exhibits introduced in evidence.

8. Copy of Trial Examiner Myers's Intermediate Report, dated May 1, 1939.

9. Copy of respondent's telegram, dated May 9, 1939, requesting an extension of time for filing exceptions to intermediate report.

10. Copy of telegram, dated May 10, 1939, granting request for additional time for filing exceptions.

11. Copy of respondent's exceptions to the intermediate report, dated July 14, 1939.

12. Copy of respondent's letter, dated May 12, 1939, requesting permission to file briefs and oral argument.

13. Copy of letter, dated May 17, 1939, granting permission to file briefs.

14. Copy of notice of hearing for the purpose of oral argument, dated September 22, 1939.

15. Copy of respondent's request for further postponement of hearing, dated September 28, 1939.

16. Copy of letter granting aforesaid request, dated October 5, 1939.

17. Copy of notice of postponement of hearing, dated October 5, 1939.

18. Copy of list of appearances at oral argument held October 24, 1939.

19. Copy of decision, findings of fact, conclusions of law and order issued by the National Labor Relations Board January 24, 1940, together with affidavit of service and United States Post Office return receipts thereof.

20. Copy of respondent's request for extension of time to comply with Board's order or take other action, together with copy of letter dated February 2, 1940, granting request.

21. Copy of respondent's motion to reopen the record and for leave to introduce further evidence, sworn to March 6, 1940.

22. Copy of order denying motion to reopen the record and for leave to introduce further evidence, dated March 22, 1940.

In testimony whereof the Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the City of Washington, District of Columbia, this 11 day of June 1940.

[Seal]

NATHAN WITT,

Secretary

NATIONAL LABOR RELATIONS
BOARD

[Endorsed]: No. 9518. United States Circuit Court of Appeals for the Ninth Circuit. The Texas Company, Petitioner, vs. National Labor Relations Board, Respondent, National Maritime Union of America, Intervener. Transcript of Record upon Petition to Review and Request for Enforcement of Order of the National Labor Relations Board.

Filed: June 17, 1940.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 9518

THE TEXAS COMPANY,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent,

PETITIONER'S STATEMENT OF POINTS
AND DESIGNATION OF MATERIAL
PARTS OF RECORD PURSUANT TO
RULE 19

STATEMENT OF POINTS

Petitioner, The Texas Company, hereby states the points on which it intends to rely on this petition for review, as follows:

1. There is no substantial evidence in the record to support the Board's finding and conclusion that your petitioner, by anti-union statements and in other ways, interfered with, restrained and coerced its employees in the exercise of rights guaranteed by Section 7 of the Act and thereby engaged in unfair labor practices within the meaning of Section 8(1) of the Act.

2. There is no substantial evidence in the record to support the Board's finding and conclusion that your petitioner warned its employees against organization, threatened to discharge Union members

and questioned an employee about membership in the Union and thereby interfered with, restrained and coerced its employees on its vessel, the S. S. "California", in the exercise of the rights guaranteed by Section 7 of the said Act.

3. There is no substantial evidence in the record to support the Board's finding and conclusion that your petitioner discharged Clarence Buckless and J. Gordon Rosen from the S. S. "Nevada" because of Union activities.

4. There is no substantial evidence in the record to support the Board's finding and conclusion that your petitioner discharged J. Gordon Rosen from the S. S. "Washington" because of Union activities.

5. The Board erred, as a matter of law, in awarding back pay to Clarence Buckless for the period from April 18, 1938 to June 1, 1938, since the Board did not direct reinstatement of said Clarence Buckless.

6. The Board erred, as a matter of law, in directing reinstatement of J. Gordon Rosen since he had obtained regular and substantially equivalent employment elsewhere.

7. The Board erred, as a matter of law, in awarding back pay to J. Gordon Rosen since he had obtained regular and substantially equivalent employment elsewhere.

8. The Board erred, as a matter of law, in directing petitioner to cease and desist and to take affirmative action as specified in the Board's decision and order and to post notices to such effect.

9. The Board erred in sustaining the Trial Examiner's rulings as to evidence, as follows:

(a) Denial of petitioner's motion to strike out the testimony of Board's witness J. Gordon Rosen respecting telegrams and a letter sent by members of the crew of the S. S. "Washington" to the New York office of petitioner, on the ground there is no evidence that such telegrams and letter were ever received by petitioner.

(b) Denial of petitioner's motion to strike out the testimony of Board's witness J. Gordon Rosen as to talks he had with the Masters of petitioner's vessels as a representative of the seamen on such vessels, on the ground such evidence was immaterial and irrelevant.

(c) Denial of petitioner's motion to strike out the testimony of Board's witness J. Gordon Rosen describing meetings of ships crews and conversations he had with the Masters and other officials of the S. S. "Nevada" and the S. S. "Washington", on the ground such conversations were hearsay.

10. The Board erred in denying petitioner's motion to reopen the record and for leave to introduce further and newly discovered evidence to establish that J. Gordon Rosen had obtained regular and substantially equivalent employment elsewhere.

11. The Board erred in holding that the facts alleged in petitioner's motion to reopen the record and for leave to introduce further and newly discovered evidence in respect to J. Gordon Rosen did

not establish that said J. Gordon Rosen had obtained regular and substantially equivalent employment elsewhere.

DESIGNATION OF PARTS OF RECORD

Petitioner hereby designates the parts of the record which it deems necessary for consideration of the aforesaid points, as follows:

Testimony

Testimony of J. P. Roney (Stenographer's Minutes pp. 14-48)

Testimony of J. Gordon Rosen (Stenographer's Minutes pp. 124-455; 1130-1131)

Testimony of George B. Hart (Stenographer's Minutes pp. 455-477)

Testimony of James P. Blasingame (Stenographer's Minutes pp. 477-626)

Testimony of Clarence Buckless (Stenographer's Minutes pp. 627-886; 1132; 1895-1932)

Testimony of Leo Hermen (Stenographer's Minutes pp. 1007-1098)

Testimony of John Owens (Stenographer's Minutes pp. 1098-1102)

Testimony of E. H. Baldwin (Stenographer's Minutes pp. 1132-1241)

Testimony of Dave Rosen (Stenographer's Minutes pp. 1241-1318)

Testimony of Carl C. Tranberg (Stenographer's Minutes pp. 1516-1648)

Testimony of Hugo Swanson (Stenographer's Minutes pp. 1649-1713)

Testimony of Herman Hopper (Stenographer's Minutes pp. 1715-1736; 1760-1762)

Testimony of Charles L. Olson (Stenographer's Minutes pp. 1737-1760)

Testimony of Clarence V. Peterson (Stenographer's Minutes pp. 1980-1993)

Testimony of G. A. Bergman, (Stenographer's Minutes pp. 1995-2060; 2253-2265)

Testimony of Ernest Zihrl (Stenographer's Minutes pp. 2060-2083; 2163-2165)

Testimony of J. W. Carr (Stenographer's Minutes pp. 2085-2163)

Testimony of C. B. Johannesen (Stenographer's Minutes pp. 2165-2229)

Stipulations and Admissions

Stipulation as to testimony of Peter Peterson (Stenographer's Minutes p. 1976, line 19 to p. 1979, line 4)

Admission of counsel relative to other employment obtained by J. Gordon Rosen (Stenographer's Minutes p. 1965, line 25 to p. 1971, line 14)

Exhibits

Board's Exhibit B-2-A (Complaint)

Board's Exhibit B-2-C (Amended charges)

Board's Exhibit B-4 (Amended answer)

Board's Exhibit B-6

Board's Exhibit B-7

Board's Exhibit B-8

Board's Exhibit B-9

Board's Exhibit B-10

Respondent's Exhibit R-12

Respondent's Exhibit R-18

Respondent's Exhibit R-19-A

Respondent's Exhibit R-20-B

Pleadings, Motions, Orders etc.

Complaint

Amended Answer

Intermediate Report of Trial Examiner

Exceptions to Intermediate Report

Decision of Board

Motion to Reopen

Order Denying Motion to Reopen

Argument and Rulings on Motion to Dismiss
(Stenographer's Minutes p. 1969, line 14 to p.
1971, line 14; p. 2281, line 17 to p. 2283, line
15)

Dated August 22, 1940.

Respectfully submitted,

ALBERT E. VAN DUSEN,

135 East 42nd Street, New
York City, N. Y.

J. A. McNAIR,

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geles, California

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Texas.

Attorneys for Petitioner, The
Texas Company.

[Endorsed]: Filed Aug. 26, 1940. Paul P.
O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

RESPONDENT'S AMENDED DESIGNATION
OF PORTIONS OF RECORD TO BE PRINTED

Comes now the National Labor Relations Board, respondent in the above proceeding, and, by way of amendment to respondent's Designation of Record previously filed herein, hereby designates the following parts of the record as that portion to be contained in the printed record in addition to those parts heretofore designated by petitioner, the references being to the typewritten transcript and exhibits certified by the respondent and filed herein:

1. From page 889, line 4, to page 889, line 14.

From page 893, line 1, to page 896, line 4.

From page 912, line 6, to page 912, line 23.

From page 921, line 17, to page 922, line 14.

From page 928, line 24, to page 930, line 5.

From page 951, line 1, to page 951, line 24.

From page 1475, line 23, to page 1476, line 12.

From page 1486, line 1, to page 1498, line 2.

From page 1841, line 5, to page 1841, line 20.

From page 1854, line 17, to page 1858, line 8.

From page 1859, line 4, to page 1859, line 8.

From page 1874, line 15, to page 1876, line 1.

From page 1878, line 20, to page 1879, line 9.

From page 1886, line 8, to page 1886, line 25.

From page 1891, line 6, to page 1891, line 25.

2. Board's Exhibit 5.

Dated at Washington, D. C., this 21st day of September 1940.

LAURENCE A. KNAPP,
Assistant General Counsel

[Endorsed]: Filed Sept. 28, 1940. Paul P.
O'Brien, Clerk.